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A TEXT BOOK

ON

NEW YORK SCHOOL LAW

INCLUDING

THE REVISED EDUCATION LAW, THE DECISIONS OF COURTS AND THE
RULINGS AND DECISIONS OF STATE SUPERINTENDENTS
AND THE COMMISSIONER OF EDUCATION

PREPARED FOR THE USE OF TOWN, CITY AND UNION FREE-SCHOOL DISTRICT OFFICERS,
NORMAL SCHOOLS, TRAINING CLASSES, TEACHERS

BY

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DEPUTY COMMISSIONER OF EDUCATION OF THE STATE OF NEW YORK

ELEVENTH EDITION

REVISED TO JANUARY 1, 1918



ALBANY, N. Y.
MATTHEW BENDER & COMPANY,
INCORPORATED

1917

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**PUBLISHER'S ANNOUNCEMENT TO THE
ELEVENTH EDITION.**

The Eleventh Edition of this work has been completely rewritten and revised to January 1, 1918. It includes a complete interpretation of all educational statutes enacted by the Legislature of 1917. Among these are the Township law, the City School law, the City School Election law, the law authorizing the employment of agriculture directors, the law requiring special instruction for the mentally defective and physically defective children, the amendments of the Compulsory Attendance law, the Census law, and other amendments of the Education law; the provisions of the Physical Training law, the Military Training law, National Vocational law and other important statutes are also included.



PREFACE TO ELEVENTH EDITION.

The First Edition of this work was edited in 1902. The legitimate field of the work of the public school has greatly expanded since the First Edition of this work was prepared. New community interests have placed larger demands upon the public school system and upon local school officers and teachers who administer and operate such system. The statutes regulating the schools have been amended in accordance with the development of the work of the school system.

The aim of the author in the preparation of the Eleventh Edition of this work has been to express the meaning of the laws regulating the operation and administration of the public school system in the simplest manner possible. Having labored in the field of public education in the State for thirty years and in various fields of the public school system, he has an interest in school work which gives him an earnest desire to make this volume of the greatest possible service to the teachers and school officers of the State.

T. E. F.

ALBANY, N. Y., October 1, 1917.

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NEW YORK SCHOOL LAW

CHAPTER I

UNIVERSITY OF THE STATE OF NEW YORK

[Article 3]

The first educational institution created by the State was the "Regents of the University of the State of New York", which was established by the Legislature in 1784. This institution was therefore established within a few months after the treaty of peace between Great Britain and the United States had been signed. This institution is one of the most unique of the educational institutions in the country. The history of its growth and development is one of unusual interest and is based upon the growth and development of the nation itself. It was the intention of the State in founding this institution to make it the directing and controlling power in the building and development of the State's educational system. The great purpose of the leaders of public affairs in the State in founding this institution was not attained, however, until after the institution had been in existence for nearly one hundred and thirty years. The name of this corporation was changed by the legislature in 1889 to "University of the State of New York", and the University was placed upon a permanent foundation when the people of the State, by popular vote, adopted the State constitution of 1894. This constitutional provision, the powers of the Regents under the provisions of the unification act of 1904 and the general powers conferred upon that body in the education law enabled the Board of Regents to make the University of the State of New York the administrative body which should exercise the powers of the Education Department. Under ordinances adopted by the Board of Regents on July 2nd, 1913, the University of the State of New York thus became the controlling body in the admin-

istration of all the educational affairs of the State and then became what its founders intended it should be when the State established it in 1784.

The provision of the constitution is as follows:

ARTICLE IX

Regents of the University.—§ 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised by not less than nine regents.

Controlling Body.—The Regents are the controlling or governing body of the University.

Chief Functions.—The chief powers of the University are to administer the functions of the Education Department and to charter and inspect educational institutions, confer degrees, determine value of credentials, the value of institutions not in the University according to its standards, prescribe examinations for its secondary institutions which shall be a suitable standard of graduation therefrom and of admission to college, and to supervise entrance requirements to the learned professions, and the licensing to practice such professions, etc.

Chancellor and Vice-Chancellor.—The chancellor is the presiding officer of all meetings of the Regents and of the convocation. He confers degrees authorized by the Regents, and fixes the time and place of all special meetings of the Regents.

When the chancellor is unable to perform any or all of his duties, they are performed by the vice-chancellor.

Charter Educational Institutions.—The Board of Regents has authority to incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history, or other department of knowledge under such terms as the law provides.

The Regents may also, in their discretion, issue provisional charters, they may change the name of institutions which have been chartered, and they may, for valid reasons, suspend or revoke any charter which has been granted.

They may also amend the charter of any institution under their supervision.

No institution of higher education may be incorporated by the Regents until such institution has been inspected by some officer of the University and approved by the Regents. The buildings, furniture and equipment must meet the Regents' requirements.

Degree-Confering Institutions.—No individual, association, corporation, or institution can legally confer degrees in this State unless express provision granting this power is given by a charter granted either by the State Legislature or by the Regents. No institution or association can transact business under, or assume in any way, the name of university or college without permission from the Regents.

No institution can be authorized under the University law to confer degrees unless it has resources of at least \$500,000.

Crimes Under University Law.—Counterfeiting any credential issued under the seal of the University or making any unauthorized alteration in such credential is a felony.

Any one personating another by attempting to take an examination in his name, or procuring a person thus falsely to personate another, or attempting in any way to obtain a record of having passed a Regents' examination in violation of the University regulations, is guilty of a misdemeanor. A person who aids or abets another in such violation is likewise guilty of the same crime. A person who has in his possession previous to an examination the question papers to be used in such examination when not contained in their sealed wrappers or who sells or offers to sell a Regents' question paper in advance of an examination is guilty of a misdemeanor. A person who fraudulently issues a Regents' credential, or who falsely represents himself as having received a degree or credential, or who appends without proper authorization to his name the letters representing any degree conferred by the University, is also guilty of a misdemeanor.

University Credentials of High School Grade.—These credentials are the qualifying certificates, and the diplomas. Eight years of preacademic preparation or its equivalent is the prerequisite to the preliminary professional and all equivalent certificates. The qualifying certificates are the law student, medical student, dental student, optometry student, veterinary student, pharmacy student, and nurse student and the qualifying certificates for admission to

the examinations for certified public accountants and certified shorthand reporters and architects.

Preliminary Certificates.—A preliminary certificate is issued to any person who passes Regents' examinations in writing, reading, spelling, elementary English, arithmetic, geography and elementary United States history with civics.

Count.—The term "count" represents one year's work of one hour per week on one subject. A subject pursued five periods per week for one year represents five counts.

**Academic Diploma.*—This diploma is issued on the completion of a four-year high school course, for which seventy-six academic counts will be required, of which sixteen must be in English, eight in history and at least ten each in science and mathematics. The minimum passing mark for this diploma is sixty per cent for students pursuing regular courses in approved schools.

**Academic Diploma in Classical Subjects.*—This diploma, which indicates the completion of a four-year high school course, shall be issued to pupils in recognized high schools who earn 76 academic counts as follows: English, 16 counts; Latin, 20 counts; a second foreign language three years, 15 counts; history, 5 counts; science, 5 counts; mathematics, 10 counts; electives, 4 counts.

**Academic Diploma in Commercial Subjects.*—This diploma, which represents the completion of a four-year high school course, shall be issued to pupils in recognized high schools who earn 76 academic counts, who meet the regular requirements for the academic diploma, as follows: English, 16 counts; science, 5 counts; mathematics, 10 counts; history, 8 counts; and who pass the following commercial subjects, with a mark of 75 per cent or above: advanced bookkeeping and office practice, commercial arithmetic, commercial law, commercial geography, commercial English and correspondence, and business writing.

In computing the counts for the academic diploma in commercial subjects, commercial English and correspondence may be counted as English; commercial arithmetic and advanced bookkeeping and office practice may be counted as mathematics; history of commerce may be counted as history.

* The full requirement of 76 counts including 16 in English will not go into effect until the June 1921 examination. The count requirement will be advanced one count each year until 1921, *e. g.*, classes which graduate in June 1918 must have 73 counts including 14 in English.

**Academic Diploma in Vocational Subjects.*—This diploma, which indicates the completion of a four-year high school course, shall be issued to pupils in recognized high schools who earn 76 academic counts, who meet the regular requirements for the academic diploma, as follows: English, 16 counts; science, 10 counts; mathematics, 10 counts; history, 8 counts; and obtain at least 25 counts for the successful completion of approved courses in vocational subjects. In computing the counts for the academic diploma in vocational subjects, agricultural biology, agricultural physics, agricultural chemistry, household physics and household chemistry may be applied toward the science requirement.

College Entrance Diplomas and Certificates.—College entrance diplomas, which are issued in arts, in science or in engineering, and whose requirements are substantially the same as the entrance requirements of the colleges of the State, are designed to guide preparation for and to facilitate admission to college and to constitute, in part, the basis for awarding the University scholarships, and will be given only to pupils of the registered secondary schools in this State who make written application for such diplomas by the fifteenth of the month of July next succeeding the completion, within six years from their enrolment which may be at the beginning of any half year, of at least four full school years of time, or of a longer period if the pupils choose, of approved study in such schools, who have earned in Regents examinations, with passing marks averaging at least 75 per cent, the respectively prescribed counts. But such pupils who have earned the required counts for college entrance diplomas, of either class, with minimum passing marks of 85 per cent, and have otherwise qualified therefor, may, upon their principal's certification of exceptional training and ability, receive such diplomas after three and one-half years of such study. The specific requirements in Regents' counts may be ascertained by communicating with the President of the University at Albany, N. Y.

** Music Diploma.*—This diploma, which indicates the completion of a four-year high school course, shall be issued to pupils who earn 76 academic counts, as follows: Musical instruction (4 years), 20 counts; music practice (credit, if course is approved, allowed on certificate of principal. Two hours practice a week for a school

* See foot note p. 4.

year entitles to 1 count), 18 counts; English (4 years), 16 counts; a foreign language (2 years), 10 counts; history (two three-hour courses), 6 counts; electives, 5 counts.

Counts for music practice shall be given only to pupils of accredited academic schools after the course has in each case been approved by the Department. A course in music practice will not be approved unless it extends over at least three years of the course and not more than 6 counts will be allowed for music practice during any one year. No credit will be allowed for music practice for any particular pupil until the examination in chorus singing and rudiments of music has been passed.

A pupil who obtains the specified counts for an academic diploma may offer music for not more than 24 of the remaining 31 counts.

Advanced Diploma.—This diploma provides for all academic courses longer than the regular course covered by the academic diploma above. It is issued only to those who have earned the regular academic diploma and eighteen, thirty-six or fifty-four, etc., counts in addition. On its face are specified the total counts, its name being determined by the highest multiple of eighteen.

The above diplomas will be issued on the following basis:

1. A diploma based upon a minimum passing mark of sixty per cent in each subject except that in the case of the academic diploma in commercial subjects a standing of seventy-five per cent must be obtained in certain subjects.

2. A diploma, with credit, to be issued to students who attain a standing of seventy-five per cent or more in subjects aggregating forty academic counts. Advanced diplomas will be issued in like manner if five-ninths of the counts required are secured with the same minimum per cents.

3. A diploma, with honor, to be issued to students who attain a standing of ninety per cent or more in subjects aggregating forty academic counts.

Commercial Credentials.—*State Commercial Certificate.*—This credential shall be granted to those who pass the Regents examinations (at not less than 75 per cent) in the following subjects based on the 1910 syllabus: advanced bookkeeping and office practice, commercial arithmetic, commercial law, commercial English and correspondence, and business writing, provided the time requirement in each subject has been substantially met either in a high school or registered commercial school.

State Shorthand Certificate.— This credential will be granted to those who pass the Regents examinations (at not less than 75 per cent) in the following subjects based on the 1910 syllabus: shorthand 2, typewriting, business writing, and commercial English and correspondence, provided the time requirement in each subject has been substantially met either in a high school or registered commercial school.

Qualifying Certificates are certificates giving evidence that the holder has such academic education as is required by law or Regents ordinances for admission to the study of the various professions and for admission to certain professional and technical schools and to the examination for certified public accountants and certified shorthand reporters. These certificates are issued only for the purposes specified.

A dental student certificate, a law student certificate, a veterinary student certificate or a qualifying certificate for admission to the certified public accountant or certified shorthand reporter examination may be secured in any one of the following ways:

1. By furnishing evidence of unconditional admission to and the completion of the freshman year in a registered course of any college.

2. By furnishing evidence of the satisfactory completion of a four-year course in an approved high school (evidence of such work should be submitted on blanks furnished by the Department).

3. By passing the Regents examinations required for an academic diploma or college entrance diploma.

4. By passing within six successive years special Regents examinations aggregating 72 counts at a minimum of 75 per cent in the following subjects:

a Required, 53 counts:

English three years, 10 counts; English fourth year, 3 counts; any second year foreign language, 10 counts; elementary algebra, 5 counts; plane geometry, 5 counts; two of the three sciences, physics, chemistry, biology, 10 counts; American history with civics, 5 counts; ancient history or the history of Great Britain and Ireland, 5 counts.

b Electives, 19 counts:

An additional second year of a foreign language, namely, Latin second year, Greek second year, French second year, German second year, Spanish second year, Italian second year, or Hebrew second

year, 10 counts; physics, 5 counts; chemistry, 5 counts; biology, 5 counts; physical geography, 5 counts; intermediate algebra, 2 counts; advanced algebra, 3 counts; solid geometry, 2 counts; plane trigonometry, 2 counts; ancient history, 5 counts; history of Great Britain and Ireland, 5 counts; modern history I, 3 counts; modern history II, 3 counts; economics, 2 counts; commercial arithmetic, 2 counts; elementary bookkeeping and business practice, 3 counts; advanced bookkeeping and office practice, 5 counts; shorthand 100 word test, 10 counts; drawing, 6 counts.

The President of the University may, under extraordinary conditions, in his discretion, waive the time limit within which the certificate may be earned.

5. By evidence of one or more years of high school work (each year of such work being equivalent to 18 counts) supplemented by special Regents examinations at 75 per cent in each subject sufficient to make a total of 72 counts. Candidates for qualifying certificates by this method are to be advised upon presenting evidence of high school work in what subjects it shall be necessary for them to take examinations to complete the requirements.

c A dental student certificate may be secured after January 1, 1917, in any one of the five ways specified in section 364-a, except that evidence must be submitted showing the satisfactory completion of a one-year course in an approved school in each of the following sciences: physics, chemistry, and biology, or, in lieu thereof, the passing of each of these sciences at 75 per cent or above in Regents examinations.

d A medical student certificate may be secured after January 1, 1918, by presenting evidence of the completion of not less than two years of instruction in a college of liberal arts and science after the completion of an approved four-year high school course based on eight years of elementary preparation. This two-year college course must include a year's three-hour course in English, biology, physics, chemistry and *one* of the following: German, French, Spanish, Italian.

e Prior to January 1, 1921, a medical student certificate for admission to a school of osteopathy may be secured in any of the five ways specified in section 364-a, with the exception that evidence must be submitted showing the satisfactory completion of a one-year course in an approved school in the following sciences: physics, chemistry, biology, or, in lieu thereof, the passing of each

of these three subjects at 75 per cent or above in Regents examinations.

f A chiropody student certificate may be secured by completing one year (after September 1, 1917, two years; September 1, 1919, three years; September 1, 1921, four years) of high school work; or by earning 18, 36, 54 and 72 counts, respectively, in Regents examinations at 75 per cent or above.

g An optometry student certificate may be secured in one of the following ways:

1. On evidence of the satisfactory completion of two years of approved high school work.

2. By passing at 75 per cent or above in each subject Regents examinations aggregating 36 counts.

h A nurse student certificate may be secured in one of the following ways:

1. On evidence of the satisfactory completion of one year of approved high school work or the equivalent.

2. By passing at 75 per cent or above in each subject Regents examinations aggregating 18 counts.

i A pharmacy student certificate may be secured by earning fifteen counts (after January 1, 1918, 30 academic counts) in Regents examinations at 75 per cent or above in each subject; or by presenting evidence of study deemed by the Regents to be the equivalent.

REVIEW QUESTIONS

What was the first educational institution created by the State? When was it created? Trace its development historically. What change was made in the organization in 1889? In 1894? In 1904? In 1913?

What are the chief powers of the University? What officers has it? What are their duties? What is the authority of the University in relation to institutions which have been chartered? What steps are necessary before an institution may be chartered? What institution may confer degrees? What prohibition is made by law in relation to institutions using the name college or university? Before an institution can be authorized under the University law to confer degrees what must its resources be? What act under the University law is a felony? What acts are misdemeanors?

Name the credentials issued by the University. What is a pass card? What is meant by the term *count*? What is a preliminary certificate? An academic diploma? What must candidates do to obtain a medical-student, dental-student, or veterinary-student certificate? A law-student certificate? Other certificates?

CHAPTER II

STATE EDUCATION DEPARTMENT

[Article 2]

Historical Sketch.— The Department of the State Government which is charged with the supervision of all public education is now called the University of the State of New York. It is located in the State Education Building at Albany. This institution was established by act of the Legislature in 1784, and since that date there has been a department or departments of the State Government under different names which have been charged with the function of administering the educational interests of the State. The Unification Act of 1904 created the Education Department. By Regents' ordinance adopted in 1913, power was conferred upon the University of the State of New York to administer the powers and functions of the Education Department. The University of the State of New York is, therefore, charged with the general management and supervision of all public schools and educational institutions and of all general educational work of the State.

Maintenance of Schools — Constitutional Provision.— The Constitution contains but one provision in relation to the maintenance of a public school system. This provision is a clear, simple mandate which requires the Legislature to provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated. The language of the Constitution is as follows:

ARTICLE IX

Common Schools.— Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

The University has been organized and its work classified as follows:

BOARD OF REGENTS

General Powers.—The Board of Regents has, subject to the laws of the State, legislative control over the Education Department and State educational policies and such board also exercises all the powers of the University of the State of New York. It approves all appointments made by the Commissioner of Education, and fills any vacancy that may exist in the office of Commissioner of Education.

It gives direction to the work related to admission to the learned professions, to the management of the State library and the scientific work of the State, and to other educational work sustained by the State outside of teaching institutions.

Number.—The law provides that there shall always be three more regents than there are judicial districts in the State. As there are nine judicial districts at present, there must be twelve regents.

Election.—One regent is chosen on joint ballot of the assembly and the senate during the second week in February each year.

Term.—As one regent is chosen each year and as the number of regents is twelve, the term of a regent is twelve years.

Vacancies — How Filled.—If a vacancy on the Board of Regents occurs in a judicial district which should still have a representative on the Board of Regents and there shall be at the time of such vacancy a district not represented on such board, such vacancy must be filled by the election of a regent residing in such unrepresented district.

If a vacancy in the office of regent occurs for other cause than expiration of term of office, such vacancy shall be filled for the unexpired term by the legislature if it is in session, and if it is not in session such vacancy shall be filled at the session of the legislature immediately following.

President of University and Commissioner of Education.—The President of University and Commissioner of Education has executive direction over the affairs of the Education Department and is the general advisory and supervisory officer of the entire State educational system. Chapter III of this work is devoted exclusively to his election, powers, duties, etc.

Deputy and Assistant Commissioners of Education.—There are three assistant commissioners of education. These assistant

commissioners exercise the functions of the Commissioner of Education in their respective fields, under his general direction. The Commissioner of Education has designated the assistant commissioner for elementary education as Deputy Commissioner of Education. These officers are officially designated as follows: Deputy Commissioner and Assistant Commissioner for Elementary Education, Assistant Commissioner for Secondary Education, or Director, and Assistant Commissioner and Director for Professional Education.

Chiefs of Divisions.—The Regents on the recommendation of the Commissioner of Education classifies the administrative and clerical work of the Department into divisions. The Commissioner of Education on approval of the Regents appoints a chief or director in charge of each division. Chiefs or directors of divisions are directly responsible to the Commissioner of Education. There are twelve of these divisions.

Director of State Library.—This Division has charge of the State Library and the library school. The State Library was established in 1818. It was placed under the trusteeship of the various State officials. In 1844 it was placed under the custody of the Regents of the University, and in 1899 was made a part of the University.

Director of State Museum.—The work of this division embraces investigations in natural science, the economic and industrial applications of such science, and the State Museum. It also embraces the work of the State geologist and paleontologist, the State botanist, State entomologist, mineralogist, zoologist and archeologist.

Director of Agricultural and Industrial Education.—This division has general charge of all branches of industrial education, including trade schools, industrial schools, courses in home-making and in agriculture.

Division of History and Public Records.—The office of the State Historian is a part of the Education Department and the duties formerly devolving on that officer are now performed through this Division. The division created by the Legislature of 1911 and known as the "Public Records Division" was abolished by the Legislature of 1915 and the functions of that division were merged with the Division of History.

Director of Examinations and Inspections.— This division has charge of all examinations conducted by the Education Department and also has supervision of the inspection of the educational institutions of the State. The work of the Examinations Division and the Inspections Division was coordinated by action of the Board of Regents in April, 1915.

The propriety of holding Regents examinations was first suggested in 1828. It was not, however, until June, 1864, that regulations were prescribed for holding examinations in preliminary subjects. The first examination was held in June, 1865, and included the subjects of arithmetic, geography, grammar, reading, writing, and spelling. In 1878, examinations were established in 20 advanced academic subjects. The number of subjects has gradually increased until it is now more than 100.

(a) *Law Examinations.*— Examinations for admission to the bar are conducted by a State board of examiners under the direction of the Court of Appeals. The Department has nothing to do with these examinations. Law students, before entering upon the study of law, must offer certain preliminary educational qualifications prescribed by the Court of Appeals. The examinations by which these qualifications are determined are under the direction of the Department. It is also authorized to accept the completion of certain higher courses of study as a substitute for these examinations.

(b) *Medical Examinations.*— A certain amount of general education is required of all persons beginning the study of medicine. The University has supervision of the preliminary medical-student examinations, and is also the sole authority to issue licenses for the practice of medicine in the State. The examinations for candidates who desire to practice medicine are under the direction of boards of medical examiners appointed by the Regents. The members of these boards are leading physicians from various parts of the State. Since 1890 the authority to indorse diplomas or licenses of physicians from other States or countries has been vested in the Department. Previous to this date such authority was possessed by each of the medical colleges of the State.

(c) *Other Professional Examinations.*— This division has charge, also of the examinations for candidates who desire licenses to practice dentistry, pharmacy, optometry and veterinary medicine in the State, and also to practice as public expert accountants, or

architects, or who desire to become registered nurses. All licenses of this kind are issued by the University.

(d) *Teachers' Examinations.*— This division also has charge of all teachers' examinations held in the State. These embrace training school, training class, examinations held by district superintendents, and those for special and for life State certificates.

(e) *Other Examinations.*— This division has charge of competitive examinations on which State scholarships in Cornell University are awarded and examinations in agriculture for persons desiring to qualify for the office of district superintendent.

Administration Division.— This division has general supervision of the internal workings of the Department subject to the orders of the Commissioner of Education. It has general charge of the mails, express matter, documents and printing, purchase of supplies, finances of the Department, and has direct supervision over the employees connected therewith, and such other employees of the Department as are not under the direction of some superior officer. It is also the duty of this division to see that expenditures are made in accordance with the requirements of the appropriation bills. It also receives all fees, has charge of all expense accounts, and pays Department salaries. This division is also charged with the duty of obtaining from all educational institutions in the State and all school districts such reports as they are required by law to make to the University or to the Education Department. It tabulates such reports and prepares general statistics on our educational system. It makes all legal apportionments of State funds to the public schools of the State and to all other educational institutions entitled thereto.

Attendance Division.— This division has the general supervision and enforcement of the compulsory education law and the census laws.

Educational Extension Division.— This division includes all agencies for the promotion of educational advantages for the assistance of those unable to attend the usual teaching institutions. The means employed in the extension of this work embrace summer schools, vacation schools, evening schools, correspondence schools, lecture courses, study clubs, reading circles, etc. The supervision of the incorporated public libraries of the State is under the direction of this division. It also has charge of the traveling libraries.

The work relating to education for adult illiterates is connected with this division.

School Buildings Division.— At present this division is charged with the inspection of school buildings and sites, and the approval of plans and specifications for repairs to school buildings and the construction of new buildings.

Law Division.— This division interprets the school law and all other statutes related in any way to the educational work of the State. It has direct charge of all contested appeals and presents them in proper form to the Commissioner of Education for determination. It looks after the form and legality of charters issued by the Board of Regents and the interests of the Department in any litigation in the courts when the Department is thus involved.

School Libraries Division.— This division has charge of all matters pertaining to public school libraries and of the relation which such libraries bear to the instruction given in the schools.

Visual Instruction Division.— This division has general charge of the collection of material for giving instruction by means of pictorial or graphic representation in geography, history, science and kindred subjects and of the distribution and loaning of such material to the communities, schools and other institutions entitled to receive the same.

Creation or Abolishment of Divisions.— By concurrent action of the Regents and the Commissioner of Education the Department is divided into divisions. By similar action a new division may be created or an existing division abolished.

Appointment of Officers of Department.— All officers of the Department are appointed by the Commissioner of Education subject to the approval of the Regents.

Removals and Suspensions.— The Commissioner of Education with the approval of the Regents may remove at his pleasure any officer or employee of the Department.

When the Regents are not in session he may suspend during his pleasure without salary any officer or employee until the adjournment of the succeeding meeting of the Regents.

State Education Building.— The education building is exclusively set apart under the law for the use of the Education Department. The Regents and the Commissioner of Education are given power to assign the rooms in such building to the various divisions, officers and work of the Department.

Misdemeanor Falsely Representing Education Department.—

It is a misdemeanor for a firm, agent or other person engaged in selling, publishing or manufacturing books, charts, apparatus or any other school supplies to falsely represent to any school officer or teacher that he is an agent or representative of the Education Department, the Regents, the Commissioner of Education or any other school officer.

REVIEW QUESTIONS

What constitutional provisions is there in relation to the maintenance of a public school system? Give a brief statement of the supervision exercised by the State over Educational affairs. What power has the Board of Regents over the Education Department? Who is the chief officer of such Department? How many assistant commissioners are there? State their title. What is the general duty of each? How is work of the Department classified? What is the duty of the director of the State library? When was the library established? When was it placed under the direction of the Regents? When was it made a part of the University? What is the chief work of the State museum? State in general terms the work of the administration division. Attendance division. Educational extension division. Examinations and inspections division: When were Regents examinations first suggested? First given? State the various purpose for which examinations are held. What is the chief work of the law division? School libraries division? Visual instruction division? How are divisions created or abolished? How are the officers of the Department appointed? How may an officer be removed? How may an officer be suspended? Under whose direction may rooms of the State education building be assigned? For what use is such building exclusively set aside? What prohibition is there as to falsely representing the Education Department, etc. What is the penalty?

CHAPTER III

PRESIDENT OF THE UNIVERSITY AND COMMISSIONER OF EDUCATION

[Article 4]

Historical Sketch.—On June 19, 1812, the Governor of the State approved an act entitled “An Act for the Establishment of Common Schools.” This act is the law which is regarded as the permanent foundation of the school system of the State. It provided for a state supervisory school officer to be known as “Superintendent of Common Schools.” This was the first provision made by any state in the Union for a state supervisory school officer charged with the general administration of a state school system.

Gideon Hawley of the City of Albany was chosen by the Council of Appointment to fill this office on January 14, 1813, and served in such capacity until February 22, 1821. Superintendent Hawley during the eight years he served the State as its common school superintendent built an enduring foundation upon which the present school system of the State was established. On February 22, 1821, he was removed from office by the appointment of another person to succeed him through action of the Council of Appointment. The reason for his removal was purely political. The action of the Council of Appointment in removing the chief educational officer of the State for a purely political reason, even in that early period, caused such general indignation throughout the State and was so resented by the people that within less than two months from the date of such action the Legislature abolished the office, and the powers and duties of such office were conferred upon the Secretary of State.

The Secretary of State served *ex-officio* as superintendent of common schools from April 3, 1821, until April 8, 1854, when the first State Superintendent of Public Instruction assumed the duties of his office. Chapter 97 of the Laws of 1854 created such office. The office of State Superintendent of Public Instruction was continued until April 1, 1904, when the Unification Act went into

effect. Under the provisions of that act, the office of Commissioner of Education was created and the first Commissioner assumed the duties of his office April 1, 1904. On July 2, 1913, by action of the Regents of the University, the office of President of the University and Commissioner of Education was created.

It will thus be observed that the administration of public school work has been under the direction of four State supervisory school officers, as follows:

From January 14, 1813, to February 22, 1821, the Superintendent of Common Schools;

From February 22, 1821, to April 8, 1854, the Secretary of State, who was *ex-officio* Superintendent of Common Schools;

From April 8, 1854, to April 1, 1904, the State Superintendent of Public Instruction;

From April 1, 1904, to July 2, 1913, the Commissioner of Education;

Since July 2, 1913, the President of the University and Commissioner of Education.

Mode of Election.—Under the law of 1904 the first Commissioner of Education was elected by joint ballot of the senate and assembly. The provisions of that act have now been incorporated in the Education Law and under this law any vacancy in the office of Commissioner of Education must be filled by appointment by the Board of Regents.

Term of Office.—The term of office of the first Commissioner of Education was six years. Since the expiration of the first six years, or since April 1, 1910, the term of office of the Commissioner of Education has not been a fixed period, but such commissioner now serves during the pleasure of the Board of Regents.

Eligibility.—The public officers' law of this State provides that all State officers shall be at least twenty-one years of age, a citizen of the United States, and a resident of the State. The Education law modifies the public officers' law by providing that such Commissioner of Education may or may not be a resident of the State.

Removal.—The Commissioner of Education may be removed at any time by the Board of Regents for cause.

Salary.—The salary of the Commissioner of Education has been \$10,000 per year since 1911. It was fixed at this amount by

the appropriation bill of 1910 and also by actions by the Board of Regents.

Powers and Duties.—The powers and duties of the Commissioner of Education are so numerous that it is not practicable to consider them, except in a general way. For the specific duties of the commissioner in relation to any branch of work the chapter on such work should be consulted. The duties of the commissioner are executive and judicial. His more important powers and duties are as follows:

Chief Executive Officer.—He is the chief executive officer of the State system of education and is required to enforce all the general and special laws relating to the educational system of the State and to execute all educational policies determined upon by the Board of Regents.

General Supervision.—He has general supervision over all the public schools, normal schools, industrial schools, training schools, teachers' training classes, and libraries in the State.

Indian Education.—He is charged with the duty of providing for the education of the Indian children in the State, and is directed to apportion an equitable amount of public money to Indian schools.

Deaf and Dumb and Blind Institutions.—He also has supervision over all institutions in the State for the instruction of the deaf and dumb and blind, and is required to report annually to the State Legislature in relation thereto. He also appoints State pupils qualified under the law to all these institutions excepting the Institution for the Blind in Batavia.

Trustee, etc.—He is *ex-officio* a trustee of Cornell University, and upon the results of competitive examinations appoints annually 150 State scholars to that institution, who are entitled to free tuition. He also annually appoints 750 State scholars in the several colleges and universities in the State.

Visual Instruction.—He is authorized to collect material and make all necessary arrangements and contracts to provide instruction by means of pictorial or graphic representation in geography, history, science or kindred subjects. This instruction may be given in the schools, institutions and organizations under the supervision of the Regents. This material may also be loaned to artisans, mechanics and other citizens of the several communities of the State.

Inspection of Schools.—He shall cause all schools and institu-

tions under the statutes relating to education to be examined and inspected and to advise and guide all school officers in relation to their duties and the management of such institutions. A staff of inspectors is employed for this purpose.

Annual Reports.— He is to prepare an annual report which must be submitted over the signatures of the chancellor of the University and the Commissioner of Education to the State Legislature showing the condition of the common schools in the State and of all other schools and institutions under their supervision and subject to their visitation, and to include in such report those recommendations upon school work, which in their opinion, will promote the advancement of public education.

Supervision of Examination and Certification of Teachers.— He is to prescribe the regulations under which district superintendents may issue teachers' certificates; to issue life State certificates to those who have passed the examination required by law; to issue college graduates' certificates to those who meet the requirements for such certificates; to issue such other certificates as the rules require; to endorse under such regulations as he may adopt State certificates and normal-school diplomas issued in other States; and to issue temporary licenses for a period not to exceed one year for any supervisory district or city or any school district in the State.

Revocation of Certificates.— For sufficient cause, he may revoke any State normal-school diploma, State certificate, college-graduates' certificate, school commissioners' certificate or other certificate issued in this State. He may also revoke his indorsement of any normal-school diploma or State certificate issued in another State.

Prepare List of Normal Graduates.— He is required under law to keep in his office an alphabetical list of all persons who receive normal-school diplomas from the normal schools of the State.

Remove School Officers.— He may, for valid reasons, remove from office any district superintendent, member of a board of education, or other school officer. He may also withhold the salary of a district superintendent and may remit it at his pleasure.

Administer Affidavits.— He may take affidavits and administer oaths in any matter relative to school affairs.

Prepare Registers, Blanks, etc.— He is charged with the duty of preparing such registers, blanks, forms, regulations, etc., as may be needed in transacting all business relating to the public-school system.

Enforcement of Compulsory Education Law.— He is also charged with the duty of enforcing the provisions of the compulsory education law.

Physical Education.— He is charged with the duty of supervising the enforcement of the physical education law.

Arbor Day.— He has authority to provide for the proper observance of Arbor Day and Flag Day by the public schools of the State and is required to designate Arbor Day by proclamation.

Apportionment of School Moneys.— He must apportion as directed by law the State school moneys, and may withhold for just cause part or all of the money due any school district, town, or city in the State.

Decide Appeals.— He must hear and decide all cases of appeal, when properly brought before him by aggrieved parties, from the action of school officers or school meetings.

Issue Stays, Orders, etc.— He may, upon application in due form, issue an order restraining school officers from performing any of the duties conferred upon them. He may also issue orders directing school officers to perform any of their duties which they may have refused to perform.

School Libraries.— He has general supervision of all the school district libraries in the State, and approves the books which are purchased with public money to be placed in such libraries. He also apportions library money to school districts as directed by law and prescribes regulations under which the books of school libraries may be loaned.

Hold Property in Trust.— He may hold in trust for the benefit of the common schools of the State, or for the schools of any portion of the State, real or personal estate which may be granted in any manner for such purpose. He also has supervision of any trust fund held by trustees for school purposes, and must require them to report regarding its condition and income at such times and in such form as he deems advisable. (Article 19.)

Normal Schools.— He appoints members of local boards of normal schools, appoints pupils to such schools and determines the requirements for admission. He determines the number of teachers to be employed in such schools, and approves their appointment and the amount of their salary.

May Appoint Teachers and Open Schools in a City or School District.— When the local authorities of any city or school district

neglect or refuse to appoint teachers, janitors, etc., and also neglect or refuse to open the schools of a city or school district the State Commissioner of Education may appoint such teachers, janitors, etc., and open and manage such schools. October 4, 1897, State Superintendent Skinner exercised this power in the city of Watervliet and his action was sustained by the supreme court. (For a full discussion of this power see pages 118-125, vol. 1, Annual Report of State Superintendent of Public Instruction for 1897.)

Regulations.—The Commissioner of Education may prescribe any reasonable regulations for the government of the common schools which do not conflict with the laws and policy of the State. (184 N. Y. 421.)

REVIEW QUESTIONS

What was the title of the office of the first State supervisory school officer? When was the office created? How was such officer chosen? When was the office abolished? To whom were the duties of the office then transferred? Why? For what period did such officer act in this capacity? When did the first State Superintendent of Public Instruction assume the duties of his office? When was the office of Commissioner of Education created? How was the first Commissioner chosen? How are vacancies to be filled? What is the term of office? Who are eligible to the office? How may he be removed? What is the salary? What is the two-fold character of the duties of the State Commissioner? What are his general duties? What is his duty in relation to Indian schools? Deaf and dumb and blind institutions? Cornell University? Visual instruction? Inspection of schools, etc.? Annual reports? Examination and licensing of teachers? Revoking certificates? Lists of normal school graduates? Removing school officers? Administering affidavits? Preparing registers, blanks, etc.? Enforcing the compulsory education law? Arbor day? Apportionment of school moneys? Appeals, stays, orders, etc.? School libraries? Holding property in trust? Normal school boards? Under what conditions may State Commissioner appoint teachers, etc.?

CHAPTER IV

RURAL SCHOOL SUPERVISION

[Article 14]

Historical Development.— The act of 1795 creating the school system of the State provided that the electors of each town should elect at their annual town meetings, from three to seven commissioners of schools. These officers had supervision of the schools under their jurisdiction, and the distribution of State money appropriated for the support of schools. During the first year after the passage of this act, the supervisor, the town clerk, and the assessors of each town performed the duties of commissioners of schools. These commissioners received no compensation for their services.

In 1812 the number of town commissioners was fixed at three for each town by the State Legislature. These officers were to be chosen as before by the people at annual town meetings, and were to receive a salary fixed by the people at the annual town meetings. To them were given the superintendence and management of schools, and they were authorized to divide the towns into school districts. The same act provided that the people should select at the annual town meeting, a number of persons, not to exceed six, who, with the commissioners, should be inspectors, and these inspectors were required to inspect schools and to examine and license teachers. This plan continued until 1841, when the number of town inspectors was fixed at two.

In 1841 the office of Deputy Superintendent of Common Schools was created by the State Legislature. Each county was entitled to one deputy, and counties having more than 200 schools were entitled to two deputies. These officers were appointed by boards of supervisors for their respective counties, and the term of office was two years. Their duties were to visit and inspect the schools under their jurisdiction, and to examine and license the teachers employed therein.

In 1843 the title of these officers was changed to County Superin-

tendent of Common Schools, and increased powers were given them. The right to hear appeals was given to county superintendents in that year, and all appeals were brought before these officers for determination before they could be taken to the State Superintendent of Common Schools. These officials were entitled to two dollars per day for each day necessarily devoted to their work, but they could not receive an amount to exceed five hundred dollars per year. In 1847 the State Legislature abolished this office.

In 1843 the offices of town commissioners and town inspectors were abolished by the State Legislature, and a new officer known as the Town Superintendent of Common Schools was created. These superintendents were elected by the people at the annual town meetings. Their term of office was one year, and they received a salary of one dollar and twenty-five cents per day for actual time necessarily devoted to their work. To these officers were given the general supervision of schools, and the other duties which had been exercised by town commissioners and inspectors. Upon the abolishment of county superintendents in 1847, the duties of town superintendents were largely increased, and the duties of these officers from that year until 1856 were quite similar to the duties conferred upon school commissioners. Upon the creation of the office of school commissioner in 1856, by chapter 179 of the laws of that year, the office of town superintendent was abolished.

The office of school commissioner was abolished by chapter 607 of the Laws of 1910 and the office of district superintendent of schools created. These officers entered upon the discharge of their duties January 1, 1912.

SUPERVISORY DISTRICTS

Territory Embraced — Number of.— All territory of the State outside of cities and school districts of five thousand population or more which employ a superintendent of schools must be divided into supervisory districts. The law establishes 207 of these districts and apportions them among the counties of the State as follows:

- a. Hamilton, Putnam, Rockland, Schenectady, each one;
- b. Chemung, Fulton, Genesee, Montgomery, Nassau, Schuyler, Seneca, Yates, each two;
- c. Albany, Clinton, Columbia, Cortland, Essex, Greene, Liv-

ingston, Niagara, Orange, Orleans, Rensselaer, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Warren, Wyoming, each three;

d. Broome, Dutchess, Franklin, Herkimer, Lewis, Madison, Monroe, Ontario, Saratoga, Ulster, Washington, Wayne, Westchester, each four;

e. Allegany, Cattaraugus, Cayuga, Chenango, Erie, Onondaga, Oswego, each five;

f. Chautauqua, Delaware, Jefferson, Otsego, each six;

g. Oneida, Steuben, each seven;

h. Saint Lawrence, eight districts.

How Organized.— In a county entitled to two or more supervisory districts the school commissioner of each school commissioner district and the supervisor of each town in such county were required to meet at the county seat on the third Tuesday in April, 1911, at 10 o'clock in the forenoon and divide such county into the number of supervisory districts to which it was entitled under the law. In the formation of such districts no town could be divided. The law directs that the territory of such districts shall be compact and contiguous and formed as nearly as possible on the basis of an equal division of the territory and the number of school districts.

Call and Organization of Meeting.— The county clerk of each county entitled to two or more supervisory districts was required to give ten days' notice in writing to each supervisor and school commissioner of such meeting. The county clerk was also required to call the meeting to order at the proper hour. The school commissioners and supervisors present were required to elect from their number a chairman and a clerk.

Record of Proceedings.— The clerk of such meeting was required to deposit with the county clerk a copy of the proceedings of such meeting. Such copy must have been certified by the chairman and the clerk. The county clerk should immediately upon receipt of such proceedings have filed a certified copy thereof with the Commissioner of Education.

SCHOOL DIRECTORS

Number of.— There shall be two school directors for each town.

When and How Chosen.— Two school directors shall be chosen in each town at the general election in 1910. In 1912, and every fifth year thereafter, and in 1915 and every fifth year there-

after, one school director shall be elected in each town. These directors must be chosen at the *general election*. In towns other than in the counties of Nassau and Suffolk, in which biennial town meetings are held in the winter or spring months instead of at the general election, school directors shall be elected at such biennial town meetings. The law provides that such directors shall be nominated and elected in the same manner as town officers chosen at a town meeting held at the time of a general election. The provisions of the election law relating to the nomination and election of town officers chosen at a town meeting held at the time of the general election applies to the election of these directors.

Filing Certificates of Nomination.—Under the election law the certificates of nomination of school directors must be filed in duplicate. One certificate should be filed with the town clerk and one with the county clerk in all counties except Erie and in that county with the commissioner of election.

Notice of Election.—The notice of the election of school directors must be given by the county clerk and not by the Secretary of State. The Attorney-General has held that school directors are to be voted for at a general election, and that the county clerk must give the notice of election under authority of section 293 of the Election Law.

Ballots.—The election law makes different provisions for the printing of ballots for town officers elected at a general election in even numbered years and in odd numbered years. The names of school directors must therefore be printed as follows:

1. The names of candidates for school directors who are to be elected in an even numbered year in towns holding their town meetings at the time of the general election should be printed with other town officers to be voted for and upon a separate ballot. In such towns the ballot containing the names of candidates for town officers, including school directors, should be separate from the ballot containing the names of candidates for county and State officers.

2. In towns which hold their town meetings at a time other than the time of the general election, the names of school directors must also be printed upon a separate ballot.

3. When school directors are to be elected in an odd numbered year, there should be but one ballot and the names of such directors should be printed on the same ballot as the names of candidates for

other officers voted for in such town at the general election of that year. This rule applies to the election of school directors in 1915 and 1917.

When separate ballots are required, the town clerk must provide them.

An important question arises as to whether women may vote for a school director. A district superintendent is an officer chosen at a general election in this State, and the State Constitution provides that the right of suffrage at these elections shall be restricted to *male* citizens. The town law also provides that town officers shall be chosen by the electors of the town. A school director is a town officer and the electors of a town are also restricted to *male* citizens. The Court of Appeals of this State decided that a law to give women the right to vote for the office of school commissioner was unconstitutional.

In 1892 the State Legislature enacted a law extending the right of suffrage to women in the election of school commissioners. This act provided that persons entitled to vote for school commissioners should be registered as provided by law, in the same manner as those who were entitled to vote for county officers.

A test case on the constitutionality of this law arose in Onondaga county. Acting under the authority of this law, Mrs. Matilda J. Gage registered in the third election district in the town of Manlius, October 23, 1893. The board of inspectors were requested to remove her name from the registry, but refused to do so. An application was then made to a justice of the Supreme Court for an order to strike her name from the registry on the sole ground that she was not a qualified voter by reason of her sex. The application was granted upon the ground that the law conferring upon women the right to vote for school commissioners was unconstitutional. The inspectors obeyed the order of the court, and the name of Mrs. Gage was stricken from the registry. An appeal was then taken by Mrs. Gage to the General Term of the Fourth Judicial Department, which affirmed the action of the lower court in issuing such order. An appeal was then taken by Mrs. Gage from the action of the General Term to the Court of Appeals, and on January 16, 1894, the Court of Appeals affirmed the action of the lower courts. The opinion of this court was written by Justice Finch and concurred in by all members of the court. The ground on which the court based its decision was that section 1, article 2, of the State

Constitution provides that none but *male citizens* are entitled to vote for constitutional officers elected by the people; that the office of school commissioner is a constitutional office, and that the law in question conferring upon women the right to vote for school commissioner was a direct contravention of the State Constitution. This decision undoubtedly applies to the election of school directors. (141 N. Y. 112.)

Term of Office.—All directors chosen in 1912 and thereafter shall serve for a period of five years from January 1 following their election.

Oath of Office.—All persons elected or appointed to this office are required to take the oath of office prescribed by the State Constitution before entering upon the discharge of the duties of the office and not later than thirty days after their election. This oath may be taken before a justice of the peace or a notary public, and it must be filed in the office of the town clerk of the town.

Vacancies.—This office may be vacated (1) by filing a written resignation with the town clerk: (2) by removing from the town; (3) by death. If a town fails to elect a director a vacancy shall be deemed to exist.

Filling Vacancy.—A vacancy in the office of school director shall be filled by the town board of the town in which such vacancy exists.

Salary.—Each director shall receive two dollars per day and his necessary traveling expenses. The town board is required to audit the same.

DISTRICT SUPERINTENDENT

How Chosen.—A district superintendent is chosen by the school directors of the towns comprising a supervisory district. These directors meet as a board and each director is entitled to one vote. The election shall be by ballot and the person receiving a majority of all votes cast shall be elected.

Meeting of Directors.—The board of school directors shall meet at 11 o'clock in the forenoon on the third Tuesday in June, 1916, and every fifth year thereafter to elect a district superintendent of schools. The clerk of the board should give each director ten days' notice in writing of the hour, date and place of meeting.

Proceedings of Meeting.—Within three days after the close of a meeting of a board of directors the clerk of such board shall

file with the county clerk a copy of the proceedings of such meeting certified by himself and the chairman.

Certificate of Election.—The county clerk on receiving official notice of the election of a district superintendent of schools should deliver to the person elected a certificate of election attested by his signature with the seal of the county. The county clerk should also transmit to the Commissioner of Education a duplicate of such certificate.

Failure to Elect a District Superintendent.—The law governing the election of district superintendents provides that if the directors fail to elect a district superintendent of schools before the first day of January following the date on which the meeting to elect the superintendent is held, *and a vacancy exists in such office*, the county judge shall appoint such superintendent, who shall serve until the board of directors shall fill such vacancy. The question has been raised in some districts where the board failed to elect a superintendent as to whether or not the superintendent in office should hold over or a vacancy existed which the county judge should fill by appointment. The law specifically provides that a district superintendent of schools, unless removed, shall hold office until his successor is chosen and qualified. If a board of directors fail to elect a district superintendent the superintendent then in office under this provision of law is what is known as a hold-over officer. This contention is also sustained by the provision which confers upon the county judge the power to appoint a superintendent in case no election is reached, as this particular subdivision of the law contains the expression “*and a vacancy exists in such office.*” Since the law provides that a district superintendent shall hold office until his successor is chosen and qualified, it must be held that no vacancy exists which the county judge may fill by appointment. The provision of law conferring upon a county judge the power to appoint a district superintendent if a board of directors failed to elect and a vacancy existed in that office was intended to meet a situation which might have occurred at the first election of district superintendents. There were at that time no district superintendents in office. The office of their predecessors—that of school commissioner—was abolished under the terms of the law creating district superintendents. If a board of directors failed to elect by January 1st following the date set for a meeting for that purpose it would occur that there was no supervising school officer in such

district. To meet this situation it was provided that in such case the county judge might appoint. It has been held, therefore, that the power conferred upon a county judge to appoint was limited to the first election, or to an election thereafter in cases where there is a vacancy in the office of district superintendent and no election was reached.

Vacancies.—The office of district superintendent of schools shall be vacant upon:

1. The death of an incumbent.
2. His removal from office by the Commissioner of Education.
3. His removal from the county.
4. His filing in the office of the clerk of the county his written resignation.
5. His acceptance of the office of supervisor, town clerk, or trustee of a school district.
6. His failure to take and file the oath of office as provided in this article.

Filling Vacancy.—A vacancy in the office of district superintendent shall be filled for the remainder of the unexpired term by the board of school directors. Upon direction of the Commissioner of Education the clerk of the board of school directors must call a meeting of such board to fill such vacancy. All provisions of law in relation to the election of a district superintendent for a full term including notices, filing proceedings, etc., apply to the election of a superintendent to fill a vacancy.

Term of Office.—The term of office of district superintendents elected in 1916 and every five years thereafter shall be for five years and their terms of office shall begin on the first day of August following their election. The object of this arrangement is to have the term of a district superintendent begin at the beginning of a school year and terminate at the close of a school year.

A district superintendent unless removed holds office until his successor is elected and qualifies.

Qualifications of District Superintendents.—1. To be eligible to election to the office of district superintendent of schools a person must be at least twenty-one years of age, a citizen of the United States and a resident of the State, but he need not be a resident of the supervisory district for which he is elected at the time of his election. Such superintendent must, however, become a resident of the county containing the district for which he has been elected

on or before the date on which his term of office begins. Failure to acquire such residence will be deemed a removal from the county. No person shall be ineligible on account of sex.

2. In addition thereto he must possess or be entitled to receive a certificate authorizing him to teach in any of the public schools of the State without further examination and he shall also pass an examination prescribed by the Commissioner of Education on the supervision of courses of study in agriculture and teaching the same. The holder of a normal school diploma issued by one of the State normal schools of this State, a diploma issued by the New York State College for Teachers, a college graduate certificate, or a life State certificate satisfies the requirement of the law in relation to a teachers' certificate.

3. A district superintendent who is removed from office shall not be eligible to election to such office in any supervisory district for a period of five years.

Not to be Interested in Certain Business or to Accept Rewards, et cetera.—A district superintendent of schools shall not:

1. Be directly or indirectly interested otherwise than as author in the sale, publication, or manufacture of school books, maps, charts, or school apparatus or in the sale or manufacture of school furniture or any other school or library supplies.

2. Be directly or indirectly interested in any contract made by the trustees of a school district.

3. Be directly or indirectly interested in any agency or bureau maintained to obtain or aid in obtaining positions for teachers or superintendents.

4. Directly or indirectly receive any emolument, gift, pay, reward or promise of pay or reward for recommending or procuring the sale, use or adoption or aiding in procuring the sale, use or adoption of any book, map, chart, school apparatus or furniture or other supplies for any school or library or for recommending a teacher or aiding a teacher in obtaining an appointment to teach.

Not to Engage in Other Business.—A district superintendent of schools shall devote his whole time to the performance of the duties of his office and shall not engage in any other occupation or profession. Such time as shall not necessarily be devoted by a district superintendent of schools to the performance of the clerical and administrative work of his office shall be devoted to the visitation and inspection of the schools maintained in his supervisory

district. A district superintendent must under this requirement of the law devote his time to the supervision of his schools as exclusively as a superintendent of a city or to the same extent that a teacher devotes her time to her school.

Removal of District Superintendent From Office.—The Commissioner of Education may, by an order under the seal of the Education Department, remove a district superintendent of schools from office whenever he is satisfied that such superintendent:

1. Has been guilty of immoral conduct;
2. Is incompetent to perform any official duty; or
3. Has persistently neglected or wilfully refused to perform any lawful duty imposed upon him.

Must Take Oath of Office.—A district superintendent of schools before entering upon the discharge of the duties of his office, and not later than five days after the date on which his term of office is to commence, shall take the oath of office prescribed by the constitution. Such oath may be taken before a county clerk, a justice of the peace, or a notary public and must be filed in the office of the clerk of the county.

Salary.—1. Each district superintendent shall receive an annual salary from the State of fifteen hundred dollars, payable monthly by the Commissioner of Education from moneys appropriated therefor.

Increase in Superintendent's Salary.—The law authorizes the supervisors of the towns comprising a supervisory district to increase the salary of a district superintendent by the adoption of a resolution to that effect. When such action is taken by the supervisors of the several towns of the supervisory district, the resolution should be filed with the clerk of the board of supervisors and a duplicate thereof filed with the county treasurer. It then becomes the duty of the board of supervisors to levy against the taxable property of the towns comprising the supervisory district an amount to pay the increase authorized in the salary of such superintendent. The failure of the board of supervisors to take such action is proper ground for instituting a writ of mandamus. The courts have held that in such cases the board of supervisors must, within a reasonable time, convene and levy a tax against the towns comprising the supervisory district, for the purpose of paying such salary. (See *People ex rel. Wingate v. Board of Supervisors, Schenectady County*, 79 Misc. 641.)

Expenses.—The Commissioner of Education shall quarterly audit and allow the actual sworn expense incurred by each district superintendent of schools in the performance of his official duties, but the amount of such expense allowed shall not exceed in any year three hundred dollars. Such expenses shall be paid by the Commissioner of Education from moneys appropriated therefor.

Printing and Office Supplies.—A board of supervisors may authorize by resolution an expenditure to meet expenses of printing incurred by a district superintendent for official matters, or of the purchase of necessary office supplies. The county is not liable for expenses for either of these purposes unless the board of supervisors first passes a resolution authorizing expenditures for such purposes.

Salary May be Withheld.—The Commissioner of Education may, whenever he is satisfied that a district superintendent of schools has persistently neglected to perform an official duty, withhold payment of the whole or any part of such superintendent's salary as it shall become due and he may also withhold any sum to which such superintendent shall be entitled for expenses and the amount thus withheld shall be forfeited; but said commissioner may in his discretion remit such forfeiture in whole or in part.

Performing Duties of Another District Superintendent.—A district superintendent, when requested in writing by a superintendent of an adjoining district, *may* perform any of the official duties of the superintendent of such adjoining district. Upon an order from the Commissioner of Education, he *must* perform such duties.

Powers and Duties.—A district superintendent is the supervisory school officer for his district. (For the specific duties of a superintendent in relation to any branch of school work, consult the chapter on such subject.) The more important powers and duties of this officer are as follows:

Supervision.—One of the most important duties of a superintendent is that of supervision. He is required by law to visit and examine all the schools and school districts in his jurisdiction. It is his duty to advise teachers in relation to their methods of teaching and the management and discipline of their schools. He is charged with recommending to teachers and boards of education courses of study and such changes in the general management of schools as will best promote educational interests. He should see

that the grounds and outbuildings are in proper condition, and that the school is equipped as required by law to perform the best work possible.

Establish District Boundaries.—When the records of school districts are defective and not properly filed in the offices of town clerks, or when the boundaries of school districts are indefinite or in dispute, it is the duty of the district superintendent having jurisdiction, to establish such boundaries and to see that proper records thereof are filed in the town clerk's office. In order to do this, a superintendent may employ surveyors to establish lines, prepare maps, etc., and any expense necessary for this purpose is a charge upon the town in which the district or districts affected are located.

May Order Repairs.—When, in the opinion of a district superintendent, it is necessary for the health or comfort of pupils to make repairs or alterations on a school-house or outbuildings, he may direct the board of education of the district or town to make such repairs or alterations at an expense not to exceed \$200. The board of education, however, may vote an additional amount.

May Order Furniture Supplied.—When, in the opinion of a superintendent, the furniture in a schoolroom is unfit for use and not worth repairing, or when the supply is insufficient, he may direct the board of education of the district or town to provide new furniture at an expense not to exceed \$100.

Order Nuisance Abated.—A superintendent may also direct the board of education of any school district or town to abate any nuisance in or upon the premises under the jurisdiction of such board in any school district.

May Condemn School Building.—A superintendent has the authority, when in his opinion a schoolhouse is unfit for use and not worth repairing, to issue an order to the board of education having jurisdiction condemning such school building, and to direct in such order the amount necessary, in his judgment, to erect a building suitable for the needs of the district. Previous to 1897 a school commissioner could not exceed \$800 in his estimate of the amount necessary for the erection of a building. The Legislature of that year amended the law by removing this limit and leaving the amount to the discretion of the commissioner. A district superintendent has the same discretion. "If a school building in the town shall have been condemned by the district superintendent as unfit for use and not worth repairing and the amount required

to be raised by tax therefor shall exceed the sum of five thousand dollars the board of education shall submit a proposition for the construction of such new building to the qualified school electors of the town as above provided. If the amount to be raised for the erection of a new building in place of a building which has been condemned is less than five thousand dollars the amount thereof shall be included in the annual school tax budget of the town. Except as herein provided the board of education of a town shall be subject to the same powers and duties in relation to the erection of a new schoolhouse, when the schoolhouse in a district in such town has been condemned, which are imposed upon trustees of school districts under the provisions of the education law." (See sub. 2, sec. 348, chap. 328, Laws 1917.)

Examine and License Teachers.—It is the duty of district superintendents to conduct examinations for teachers' certificates, under such rules and regulations as shall be prescribed by the Commissioner of Education, and to license those who are found to be qualified under such regulations.

Revocation of Certificates.—A district superintendent may annul any teacher's certificate, normal school diploma, State certificate, or college-graduate's certificate, for immoral conduct on the part of the holder of such certificate. Since the passage of the Consolidated School Law of 1894 a school commissioner has not had authority to revoke a certificate upon any other ground than that of immoral conduct and this restriction applies to a district superintendent.

Administer Oaths, etc.—A district superintendent may administer oaths or take affidavits in all matters relating to school work, but without charge or fee.

Take Testimony in Appeals.—When directed by the Commissioner of Education, a district superintendent must take and report to him testimony in any appeal case. A superintendent has the authority to issue subpoenas and compel the attendance of witnesses. A failure to obey such subpoena subjects the offender to a fine of \$25.

Reports.—A district superintendent is required by law to obtain reports from the boards of education of towns and of all school districts not under the township law within his jurisdiction and to file an abstract of such reports annually with the Commissioner of Education. He is also required to submit reports from time to time to the Commissioner of Education, giving such information

relative to the schools in his district and such suggestions upon the educational work of the State as the Commissioner shall request.

Subject to Regulations of Commissioner of Education.—A district superintendent is subject to such rules and regulations as the Commissioner of Education shall from time to time adopt. Appeals from a district superintendent's acts and decisions may be taken to the Commissioner of Education.

Call School Meetings.—A district superintendent may, in certain cases, call annual and special school meetings, and must call the first school meeting in a new school district. (See chapter on school meetings.)

Rooms for Examinations.—A district superintendent can require the board of education of any school district, or town to furnish him with a suitable room or rooms in school buildings for the purpose of holding any examination appointed under the direction of the Commissioner of Education.

Dividing Territory into School Districts.—A district superintendent has the authority under the law to alter or dissolve school districts. He must, of course, take action of this kind in accordance with the terms of the township law. Under the provision of that statute, each school district in the State is continued as such district existed at the time the township law became effective. Before an order of a district superintendent consolidating two or more school districts may become effective, such order must be approved by a majority vote of the town board of education of the town or towns in which such school districts are located, and thereafter such action must be approved by a majority vote of the qualified electors of each district present and voting at a meeting of the districts consolidated by such order.

Appointment of Members of Boards of Education.—A district superintendent is authorized by law to fill a vacancy in the office of member of a board of education of a union free school district by appointment, when such vacancy has existed for thirty days or more.

Under the provisions of the township law a district superintendent is also authorized to fill a vacancy which has existed in an office of a member of a town board of education for thirty days, by the appointment of a person qualified to vote at school meetings in the town. The person appointed to such vacancy holds the office until

the next annual town school meeting, when the vacancy should be filled for the balance of the unexpired term.

Recommend Appointment of Normal School Pupils.— He has the power to recommend to the Commissioner of Education for appointment as pupils in the State normal schools such persons as are qualified and as, in his judgment, would become successful teachers by receiving a normal school training.

Apportion School Money.— He is required to apportion the State school moneys to the various school districts under his supervision as directed by law.

Assemble Teachers.— To assemble all the teachers of his district by towns, or otherwise, on days other than legal holidays when schools are not in session for conference on the course of study, counsel and advise on discipline and school management and for the discussion of school problems for the promotion of the educational interests of the districts.

Meetings of School Officers.— To hold meetings of members of boards of education and other school officers to advise and counsel them in relation to their duties and particularly in relation to the repair, construction, heating, ventilating and lighting of school-houses and improving and adorning the school grounds. To advise such boards in relation to the employment of teachers, the adoption of textbooks and the purchase of library books, school apparatus, furniture and supplies.

Inspect Training Classes.— To inspect the work done in a training class maintained in his district and to report to the Commissioner of Education on the efficiency of the instruction given and observation and practice work of the members of such class.

REVIEW QUESTIONS

What provision did the act of 1795 contain relative to the election of commissioners? What were the duties of these officers? Who performed the duties of these officers during the first year after the passage of this act? What compensation did commissioners receive? What change did the act of 1812 make in relation to the number of these commissioners? What compensation was provided? How fixed? What new office did this act of 1812 create? What was the duty of these inspectors? What change was made in the number of inspectors in 1841? When was the office of deputy superintendent of common schools created? How many deputies did each county have? How were they appointed? What were their duties? What change was made in the title of this office in 1843? What provision was

made by the act of 1843 in relation to appeals? What compensation was paid these officers? When was this office abolished?

When was the offices of commissioners and inspectors abolished? What new offices were created in this year? How were these officials chosen? For what period? What salary was paid them? What were their duties? Describe their duties between 1847 and 1856? When were these offices abolished? Why? Have women a legal right to vote for school directors? Why not? Give history of law of 1892 and a test case which arose under such law? What is the term of office of school directors? How may the office be vacated? How may such vacancy be filled? What salary does a director receive? What territory is divided into supervisory districts? How many districts are authorized? How are they distributed? How organized? When? How is meeting called for such purpose? What disposition is made of the proceedings of such meetings? How many school directors in each town? How chosen? When? How nominated? How are nomination certificates filed? Who gives notices of election? State the two cases when the ballot containing the names of school directors must be a separate ballot from that containing names of candidates for State and county officers. When printed on same ballot?

How is a district superintendent chosen? How many votes is each director entitled to? When is the first meeting of such directors? Who calls such meeting? How is a board organized? When does such board meet to elect a district superintendent? What notice of the meeting is required? What becomes of the proceedings of such meetings? Who issues a certificate of election? If a board fails to elect a superintendent, how is such officer chosen? Mention six ways in which the office of district superintendent may be vacated? How is a vacancy in such office filled? What is the term of the first superintendents chosen? What the term thereafter? What is the object of this arrangement? What qualifications are specified for this office? How does removal from such office affect the qualifications of the officer removed?

What prohibitions does the law prescribe as to the business interests of a district superintendent? What is the requirement of the law in relation to the work a superintendent may engage in? Who may remove a district superintendent? State three grounds for removal. When must a superintendent take the oath of office? Who may administer it? What salary is paid a superintendent? Who pays this salary? How may the salary be increased? What provision is made to meet the expenses of a district superintendent? Who may withhold a superintendent's salary? For what reasons?

Who may remove a superintendent from office? Upon what ground? When *may* a superintendent perform official duties for the superintendent of an adjoining district? When *must* a superintendent perform such duties? What are the duties of a superintendent in relation to supervision? In establishing boundaries? Whom may he employ for this purpose? To whom is such expense chargeable? When may a superintendent order repairs on building? To what amount? When may he order furniture purchased? To what amount? When may he order nuisances abated? When may he

condemn a school house? What amount may he direct to be expended to erect a building in the place of the one condemned? What change was made by the Legislature of 1897 in relation to the amount a commissioner could direct to be expended? What discretion has a superintendent?

What is his duty in relation to examination and licensing of teachers? What certificates may a superintendent revoke? Upon what ground? May he revoke a certificate upon any other ground? What oaths or affidavits may he administer? Is he entitled to fees for such service? When may he take testimony in appeal cases before the State department? What special authority has he in such cases? What reports is he required to obtain? What reports must he make? To what regulations is he subject? To whom may appeals from his acts and decisions be taken? What school meetings may he sometimes call? What accommodations can he require for examinations? What power has he to divide the territory of his district? When may he appoint a trustee? What are his duties in relation to normal school pupils? State moneys? When may he assemble the teachers of his district? The school officers? What is his duty in relation to training classes?

CHAPTER V

DUTIES OF SUPERVISORS, TOWN CLERKS, COUNTY TREASURERS, DISTRICT ATTORNEYS, AND COUNTY JUDGES, IN RELATION TO SCHOOL MATTERS

SUPERVISORS

[Article 13]

Trustees of Gospel and School Lands.— Supervisors are made the trustees of gospel and school lands.

Annual Return of School Money.— Each supervisor must make a return in writing on the first Tuesday of February in each year to the county treasurer, showing the amount of money in his hands for teachers' salaries and the districts to which such money belongs. After such date he should not pay out any of such money until he receives the next certificate of apportionment from the district superintendent.

Disbursement of School Moneys.— It is the duty of supervisors to pay upon the order of the board of education of a district or town school treasurer any money in his hands belonging to such district or town and applicable to the payment of teachers' salaries, or for tuition and transportation of pupils, or library purposes.

Payment to Collector or Treasurer.— Whenever the collector or treasurer of a district or town shall present to a supervisor a copy of the bond which such collector or treasurer has executed, certified by the board of education, the supervisor shall pay to such collector or treasurer all the moneys in his hands due such district or town that may be applied upon the payment of the salaries of teachers.

Accounts of Receipts and Disbursements.— A supervisor should keep a correct account of all moneys received and disbursed by him, and should make a report thereof, with proper vouchers, to the town board at its annual meeting.

Record of Receipts and Disbursements.— A supervisor is authorized by law to purchase, at the expense of the town, a blank-book in which he shall make a record of school moneys received or

paid out, stating from whom and for what purposes they were received, and to whom and for what purposes they were paid. This record should be delivered to his successor in office.

Filing Statement of Accounts.— Within fifteen days after the term of office of a supervisor expires he should make a correct statement of the school moneys received and disbursed by him, and should file such statement or report in the town clerk's office, and should notify his successor in office that he has made and filed such report.

To Obtain Funds from Predecessors.— When a supervisor has given the bond required by law to the county treasurer, he should take a certificate or statement from the county treasurer showing that such bond has been given. He should also obtain from the town clerk a copy of his predecessor's report. He should then present to his predecessor in office such copy and the certificate of the county treasurer showing that he has executed the required bond, and should demand all school moneys in the hands of such predecessor in office, which money should be paid upon such demand.

Recovery of Penalties and Forfeiture.— It is the duty of the supervisor, when such duty is not imposed upon other officers by provisions of law, to sue for and recover all penalties and forfeitures provided for by the education law. After deducting his expenses he should report the balance to the district superintendent.

Formation and Alteration of School Districts.— When requested to do so, a supervisor may act as a member of the local board to consider the wisdom of forming new school districts or changing the boundaries of districts already formed. He cannot act in this capacity unless properly requested, and cannot be compelled to act when requested. In such matters he may act at his own discretion.

For this service supervisors are entitled to \$1.50 per day, which is a charge upon their respective towns.

Fix Valuation of Property.— The supervisors of the towns in which a school district is located shall, when properly requested to do so, determine whether the assessments made upon certain property in such towns are equitable when compared with each other. If in any case they find that the assessments are not equitable they may determine the relative proportion of taxes that ought to be assessed, and if they are unable to agree upon this, they may call a supervisor from an adjoining town, and a majority shall have

power to determine such proportion. The township law specifically continues this provision of law. For this service supervisors are entitled to three dollars per day, which shall be a charge upon their respective towns. (See chapter on "Taxes.")

Fees for Paying Out School Money.— The Legislature of 1904 amended the town law by providing certain fees to be paid a supervisor for services and including the paying out of school moneys. A supervisor is entitled to a fee of one per-centum on all school moneys paid out in accordance with the provisions of the education law. He is not entitled to such fee on any money paid his successor in office.

TOWN CLERKS

[Article 12]

Preserve Records.— It is the duty of a town clerk to preserve carefully all books, papers, and records deposited or filed in his office and relating to the schools of the town of which he is clerk. Any loss or injury to such documents should be reported immediately to the supervisor of the town.

Record of Apportionment.— Each supervisor deposits with the town clerk the certificate of apportionment for his town, which certificate he should record in a book provided for that purpose. He should also immediately notify boards of education that the supervisor has filed such certificate.

Obtain Reports of Trustees.— It is the duty of the town clerk to see that all trustees within his town file in his office an annual report as required by law. Such reports are to be delivered by the town clerk to the district superintendent upon his demand.

Record of Annual Accounts.— He should record the annual account of receipts and disbursements of school moneys made to him by the supervisor and should also record the action taken by the town auditors on such account and on the vouchers accompanying it. When the Commissioner of Education requires it, he should furnish him a copy of such account.

Final Accounts.— A town clerk should record in the same book in which he records the annual accounting of a supervisor, the final accounting of school moneys by the supervisor, and he should deliver a copy of such final accounting to the supervisor's successor.

Filing Treasurer's Certificate.— A town clerk should receive and record, from an outgoing supervisor, the certificate of the

county treasurer showing that the bond of such supervisor's successor has been executed and approved.

Records of Districts.—He should receive, file, and record all descriptions of school districts and their alterations and all other papers and proceedings relating to school matters which are delivered to him by the district superintendent.

Assist in Formation of Districts.—A town clerk may become a member of a local board to pass upon an order issued by a district superintendent to change the boundaries of a school district or to form a new district. He may act in this capacity when requested to do so by the board of education in his town, but not otherwise. He may act at his pleasure in regard to attending the meeting of a local board for this purpose, but he cannot be compelled to attend. The law leaves his attendance optional. For service in this capacity a town clerk is entitled to \$1.50 per day, which is a charge upon his town.

Preserve Records of Dissolved Districts.—A town clerk should receive and preserve all books, papers, and records of a dissolved school district that are deposited in his office as the law directs.

File Bond of Collector.—A town clerk should receive and file a bond given by a collector of a union free school district in his town which has a population of fifteen hundred or more, and enter memorandum of the same in proper book. The town clerk should also receive and file the bond given by a town collector for the collection of school taxes. He is entitled to a fee of twenty-five cents for every such bond filed. (Sec. 252.)

Payment and Expenses.—For any service performed by a town clerk in discharging the duties above mentioned, for which no fee is provided by law, he is entitled to the same compensation that he would receive for performing similar services for the town, and it should be audited by the town board as a charge upon the town. All disbursements in postage, express charges, etc., are a charge upon the town also.

COUNTY TREASURER

Annual Report to Commissioner of Education.—On the first of October of each year, a county treasurer should report to the Commissioner of Education the amount of money received by him

from the academic and library funds, the amount paid to each city, school district and academy and the amount in his hands, if any, unclaimed by any such city, district or academy.

Require Bonds of Supervisor.—As soon as the county treasurer receives the district superintendent's certificate of apportionment, he should require the supervisor of each town in his county to execute a bond with two or more sureties in double the amount of school money to be respectively paid to each of such supervisors. Whenever a vacancy occurs in the office of supervisor and such vacancy is supplied, the person chosen to fill such vacancy should be required by the county treasurer to give a bond in like manner as supervisors regularly elected, in double the amount of school moneys in the hands of the former supervisor.

Should Sue Bond.—If the condition of the bond of any supervisor should be broken, the county treasurer should sue the bond in behalf of the town and pay the money recovered to the successor of the defaulting supervisor.

Payment of School Moneys.—After a supervisor has given a bond approved by the county treasurer, such treasurer should pay such supervisor the amount of school money shown to be payable to him by the superintendent's certificate of apportionment.

Payment of Unpaid Taxes.—Whenever a collector is unable to collect the school-district tax upon any real estate and the matter is properly presented to the county treasurer, it is his duty to pay such tax from the contingent fund and to report the facts to the board of supervisors of the county. (See chapter 15.)

DISTRICT ATTORNEY

Fines from Prosecutions.—The district attorney should prosecute all persons guilty of misdemeanors in relation to school affairs, as required by law, and should report annually to the board of supervisors all fines collected as the result of such prosecution, and all such money received by him should be immediately paid to the county treasurer. (Sec. 851.)

Adjust Costs.—When the amount claimed by a board of education or other school officers for defending actions and proceedings in behalf of a district is disputed by such district and the county judge is debarred from acting, such claim, when presented in due form, must be adjusted by the district attorney.

COUNTY JUDGE

Appoint District Superintendent of Schools.—When a board of school directors fail to elect a district superintendent of schools and a vacancy exists in such office the county judge appoints a superintendent. (Sec. 383.)

Adjust Costs.—When the officers of a school district or town have brought or defended an action or proceeding in behalf of such district *by instruction*, and the amount claimed by such officers for costs and expenses is in dispute, and when such officers have brought or defended an action or proceeding in behalf of a district *without instruction*, and the district meeting or town school meeting refuses to allow the claim presented by such officers for costs and expenses and the matter is properly presented to the county judge, he should give a hearing, examine into the facts of the case, and decide what amount should be allowed such officers, if any. A county judge cannot adjust a claim for costs and expenses incurred in bringing or defending appeals before the Commissioner of Education, but only in an “action or proceeding,” in court. (Sec. 860; 31 Misc. 590.)

REVIEW QUESTIONS

Of what school property are supervisors trustees? What annual return of school moneys must supervisors make? When and to whom is such return made? When may supervisors pay out such moneys after a return has been made? Upon whose order should a supervisor pay the money in his hands for the payment of teachers' wages? When should a supervisor pay to a collector or treasurer of a union free school district the money due their district for teachers' wages? What disposition should a supervisor make of the money in his hands, for teachers' wages and library purposes, belonging to union free school districts? To whom should the supervisor make a report of the school moneys received and disbursed by him? What record of moneys should a supervisor keep? What should he do with this record?

What statement should a supervisor file in the town clerk's office? When? To whom should he send notice that such report has been filed? State what is necessary to qualify a supervisor to obtain funds from his predecessor in office. What is the duty of a supervisor relative to penalties and forfeiture under the consolidated school law? In what manner may a supervisor assist in the formation or alteration of school district boundaries? Has he authority to act if not requested to do so? Can he be compelled to act in such capacity? To what compensation are supervisors entitled for such service? When may supervisors determine upon the equitable assessment of property? When may the supervisor of an adjoining town assist in such matters? What compensation does he receive for this service?

What is the general duty of a town clerk relative to preserving school district records? What record of a supervisor's certificate of apportionment should a town clerk make? What officers' reports must he obtain? What must he do with such reports? What is his duty in relation to records of annual accounts? Final accounts? Treasurers' certificate? Records of boundaries of districts? When may he assist in forming a new school district or in changing the boundaries of a district? Can he act if not requested? Can he be compelled to act? What compensation does he receive? What is his duty in relation to records of dissolved districts? In filing bonds of treasurer or collector? To what compensation is he entitled? How is such compensation paid?

When must a county treasurer report to a district superintendent? What must such report show? What is his duty in relation to requiring bonds of supervisors? When should he sue the bondsmen of a supervisor? When should he pay school moneys to supervisors? When should he pay uncollected taxes on real estate to a school district collector?

What is the duty of the district attorney in relation to fines and prosecutions? In adjusting costs?

When may a county judge appoint a district superintendent? When may he adjust costs of district officers defending an action or proceeding for or against the district? What amount may he allow? May he adjust costs incurred in an appeal to the Commissioner of Education in an action or proceeding as defined by the Civil Code?

CHAPTER VI

SCHOOL DISTRICTS

[Article 5]

New Conditions.—The whole plan of administration of school districts has been modified by the provisions of the township law. These districts no longer exist as administrative school units. They are succeeded by the town school unit, which in most cases is that portion of the township outside of union free school districts having a population of fifteen hundred or more. Each school district, however, is continued as it existed on May 2, 1917, the date when the township law became effective. The boundaries of a school district may not be changed except as provided in that law, which requires a vote of the inhabitants of the district in favor of the proposed change. School districts are continued for the sole purpose of fixing definite divisions of territory in which a school shall be maintained. The whole method of changing boundaries of a school district, dissolving districts, consolidating districts and erecting new districts has been changed under the township law. The provisions of that law must be applied in any action intended to modify the boundaries of school districts.

Number of Districts.—For the school year ending July 31, 1916, the number of school districts in the State, not including cities, was 10,498. The number differs from year to year as new districts are formed and others abolished.

Origin of District System.—The school act of 1795 provided that the inhabitants of a town might associate together for the purpose of establishing and maintaining schools. Schools were maintained under this plan until 1812, when the law was changed by the school act of that year providing that the town commissioners should divide their respective towns into a suitable and convenient number of districts which should be numbered. The act providing for union free schools was passed in 1853, and was incorporated into the Consolidated School Act of 1864. The object was to create strong schools by uniting weak ones, thus bringing more

pupils and property to the support of a single school and make such schools free to all the children living in them. The school district as a unit of administration was abolished by chapter 328, Laws of 1917.

Division of Territory.—The law provides that all territory of the State must be divided and included in school districts. If there is territory in a supervisory district not included in some school district, it is the duty of the district superintendent having jurisdiction, to divide such territory and order that it be included in the school districts to which it properly belongs.

School District.—A school district is the smallest subdivision of a town in which a school is maintained.

Classes of Districts.—Under the education law school districts are known as union-free school districts and common-school districts.

Union Free-School Districts.—Union free-school districts are the districts organized as such under the provisions of the education law, or under special acts of the State Legislature. These districts have a board of education and are usually organized in the villages and cities of the State.

Common-School Districts.—All school districts in the State which are not organized as union-free school districts are common-school districts.

Joint Districts.—Joint districts are school districts lying in two or more supervisory districts or in two or more towns. These districts are either common-school districts or union free-school districts. Joint districts must bear the same number in each town.

Public School.—A public school is a school that is free and accessible to all the children of school age residing in a district or city, and supported by public taxation. Common schools and union free schools are public schools. It may also be said that all public schools are common schools.

Farm School.—The board of supervisors in a county, outside of the city of New York, may organize a farm school for the purpose of giving instruction in the trades and in industrial, agricultural and home-making subjects. The cost of maintenance is a county charge. (For details of the statute, see Laws of 1915, Ch. 307.)

Camp Schools.—The law now authorizes the maintenance of camp schools, to afford educational facilities for the children of

laborers who may be employed in large construction works, such as reservoirs, public highways, power plants, etc. These are special schools, and the details of the law are not given here, but may be found by consulting Chapter 21, Laws of 1913.

School Year.—The school year begins on the first day of August and ends of the thirty-first day of July following.

Who May Attend School.—All persons over five and under twenty-one years of age are entitled to attend the public school of the school district or city in which such persons reside, the full period for which such public school is in session, without payment therefor. Such has been the law since the passage of the free school act in 1867. (Sec. 567.) Children over four years of age are entitled to attend a kindergarten maintained in the district in which such children reside, without charge. (Sec. 311.)

Attendance of Non-resident Pupils.—Non-resident pupils may upon the written consent of the board of education of a town be admitted to a public school in such town. The board determines the conditions upon which non-resident pupils are admitted and the amount of tuition which must be paid. Whenever the parents or guardians of non-resident pupils are taxed on property owned by them and located in the town in which such non-resident pupils attend a public school, the amount of such tax paid must be deducted from the tuition charged. (Sec. 567.) The township law confers on boards of education the power to transfer pupils to a school in an adjoining town, district or city. The law regulating such matter is treated fully under Powers of Town Board of Education.

Attendance of Indian Pupils.—When a school district contains an Indian reservation on which a school for Indian children is maintained, the Indian children of such reservation are not entitled to the school privileges of the district in which such reservation is located and cannot be legally admitted to the public district school without the consent of the Commissioner of Education. (Sec. 943.)

Description of Districts.—There should be on file in the town clerk's office, a complete description in metes and bounds of each school district of his town. The districts of a town should also be numbered consecutively. In a town in which twelve school districts are located, such districts should be numbered from one to twelve, inclusive. If any of the districts of such town should be abolished, the districts should be renumbered by the district superintendent so as to make the numbers consecutive. For example, if district No. 8

should be abolished, No. 12 should be changed to 8, and the districts would then be numbered from 1 to 11, inclusive.

Formation and Dissolution of Joint Districts.—When the best interests of public education will thus be conserved, a school district may be formed from the territory of two or more supervisory districts by the joint action of the district superintendents having jurisdiction or a majority of them.

A joint district may also be dissolved. This requires, however, the joint action of the superintendents of the supervisory districts in which such joint district is located. The dissolution of a school district contemplates the annexation or consolidation of its territory to another district. The provisions of the township law relating to consolidation of school districts which is treated later in this chapter apply to joint districts.

Alteration of Boundaries of a Union Free-School District.—A district superintendent has the authority to alter the boundaries of a union free-school district which is not under the township law and whose limits do not correspond to those of an incorporated village in the same manner that common school districts are altered. The consent of the Board of Education of such union free-school district and the consent of the Board of Education of each other union free-school district or township unit, affected by the order, should be obtained, when possible. Otherwise, notice must be given and a hearing held as in the case of the alteration of school district boundaries without consent as hereinafter explained. A district superintendent may alter the boundaries of a union free-school district having a population of five thousand or more and employing a superintendent of schools, provided the written approval of the Board of Education of such district and the written approval of the board of the other district or town unit affected thereby have been obtained.

Dissolution of Union Free-School District.—When a meeting, regularly convened, organizes a union free-school district, such district cannot be dissolved within one year from the first Tuesday in August following the date on which it was organized.

But any union free-school district which has been established for one year or more may be dissolved by a special meeting of the district with the approval of the district superintendent. A meeting for this purpose should be called by the Board of Education when an application therefor is presented to them, signed by at

least fifteen resident taxpayers of the district. This applies of course to a union free-school district having a population of 1,500 or more or employing fifteen teachers or more.

Action of Meeting.—The vote of a district meeting on this question should be taken by recording the ayes and noes; and to receive favorable action, the proposition to change from a union free-school to a common-school district must receive a two-thirds vote of the legal voters present and voting on the question. Whenever the question fails to receive a majority vote, no further meeting for a similar purpose can be held within three years from the date of the meeting at which such vote was taken.

Approval of District Superintendent.—Whenever a district takes favorable action upon the proposition, it is the duty of the Board of Education of such district to present to the district superintendent having jurisdiction, certified copies of the call for and notice of such meeting and of the proceedings of the meeting. If the district superintendent approves the action of the district meeting, he should file a certificate to that effect with the Board of Education. But the change of such district to a common school district cannot go into effect until the day preceding the first Tuesday of August next following.

Disapproval of District Superintendent.—If the district superintendent having jurisdiction, should refuse to approve the action of a meeting in voting to change from a union free-school district to a common-school district, no meeting can be held in such district for a like purpose within three years from the date on which the meeting was held at which such vote was taken.

Conditional Approval of District Superintendent.—A district superintendent may make his approval of such proceedings upon the condition that the district which has been greatly benefited by consolidation in the way of buildings, improvements of site, etc., shall pay an equitable sum to each of the other districts into which the district will be divided.

Division of Dissolved District.—The district superintendent having jurisdiction, has the authority to divide the territory of a union free-school district which has been dissolved as described in this chapter into common-school districts, and whenever a union free-school district which was established by the consolidation of two or more districts shall be dissolved, the district superintendent

may divide such territory into districts to correspond, so far as practicable, to the districts which had been consolidated.

Transfer of Academies to Former Trustees.—When a district so dissolved shall contain an academy which was converted under the law into the academic department of the union free-school of such district, the Board of Education must transfer such academy to a majority of the surviving resident former trustees or stockholders, upon their application.

Disposition of Money on Hand.—Whenever a union free-school district shall be thus dissolved and there shall be any money in the hands of the treasurer of such district, such money should be equitably apportioned among the school districts into which the union free-school district has been divided, and should be paid over to the treasurer of the town or town school unit to which such district or districts belong.

Notification of Commissioner of Education.—Whenever a meeting of a union free-school district has been duly convened and has voted to dissolve such district, and this action of the meeting has been approved by the district superintendent, copies of the call for and the notice of such meeting, and of its proceedings and their approval by the district superintendent, all duly certified by the Board of Education, should be forwarded to the Commissioner of Education.

Appeal to Commissioner of Education.—Any person feeling aggrieved by the action taken in any of the proceedings in such cases, may bring an appeal to the Commissioner of Education, who has power to decide the matter and his decision is final.

Outstanding Moneys of Dissolved Districts.—The supervisor of the town within which the schoolhouse of a dissolved district is situated has authority to receive, sue for, and collect, in his name of office, any money due the district from its former officers or from any other person.

Adjustment of Affairs of Dissolved Districts.—After a district has been dissolved it continues to exist in law for the purpose of providing for and paying all its just debts. For this purpose its trustees and other officers continue in office; the district may hold special meetings, elect officers to fill vacancies, and vote taxes; and the inhabitants of the district and its officers may transact any other business necessary for the adjustment of such debts.

Records of Dissolved Districts.—The district superintendent, or if a joint district, the superintendents, should direct the clerk or other person who may be in possession of all books, papers, and records of the district to deposit such books, papers, and records in the town clerk's office of the town in which the school-house of such dissolved district was located. The superintendent should file a copy of the order served on the district clerk or other person with the town clerk.

A failure on the part of a district clerk or any other person to comply with the order of a superintendent in this matter is punishable by a fine of \$50.

Methods of Alteration.—In altering the boundaries of any school district there are two methods of procedure. One is *with* the consent of the trustees of the districts affected, the other is *without* the consent of such trustees.

It is impossible to change the boundaries of one district without changing the boundaries of at least one other. If territory is taken from one district it must be added to another. There will, therefore, always be at least two districts affected when a question of alteration of boundaries is involved.

Action With Consent of Trustees.—A district superintendent should, if possible, obtain the consent of the town Board of Education when he decides to alter the boundaries of a district. This consent should be in writing and should state definitely what changes are to be made. When two towns or town school units will be affected by the order the consent of the board of each town should be obtained. A description of the districts as they shall be after the proposed changes are made should be incorporated in the written consent of such board. The Commissioner of Education has held that a majority vote of a town board at a meeting regularly called shall be considered the action of such board. The consent of the town board having been obtained, the superintendent may issue an order making the alterations, and must file a copy thereof with the town clerk of the town in which such districts are located, and if such districts are located in two or more towns, a copy must be filed with the town clerk of each of such towns. A copy should also be filed with the clerk of the board of education of the town or towns in which the districts are located. The order should state definitely what changes are to be made and must recite that the

consent of the town board has been given. These consents should be attached to and form a part of the order of the superintendent.

The Commissioner of Education has held that a member of a board of education cannot consent to transfer his own land from one school district to another.

Action Without Consent of Board.— This procedure is more complicated than the former. When a town board refuses to consent to the proposed alteration the superintendent must follow out each step provided by statute. He may make the order and file it with the town clerk of the town in which the districts are located, and a copy of such order with the clerk of the board of education. This order is known as the preliminary order, and must recite the refusal of the board of education to the consent of such order and the superintendent must direct that the order shall not take effect within three months from the date thereof.

Within ten days after filing such order the superintendent must give at least one week's notice in writing to the board of education of the town in which the districts affected are located, that, at a specific time, and at a place in the town in which one of the districts to be affected is located, he will hear the objections which may be offered to the proposed alteration.

This notice must state that an order of alteration has been issued, and a copy of such order must also be inserted in the notice.

Local Board.— Upon the request in writing of the town board of education, the supervisor and town clerk of the town or towns in which the districts affected wholly or partly lie, may be associated with the superintendent upon the hearing of objections to his preliminary order. No supervisor or town clerk can act in this capacity who has not been requested to do so. And such supervisor and town clerk must prevent such request, with proof of service of the same, to the superintendent, at the time and place fixed for such hearing, to establish their jurisdiction to act. The supervisors and town clerks thus requested to act and the superintendent, form the *local board* to hear and determine upon the merits of the objections offered to the proposed changes. If a supervisor or a town clerk should be associated with a local board without being requested by the town board of education, any decision of such local board determined by the votes of such supervisor or

town clerk should be declared void by the Commissioner of Education upon appeal to him in due form.

Town officers are not required by law to attend such meetings. Town boards of education are authorized to request them to attend; but there is no authority to compel their attendance. If any of these officers who are entitled to act as members of a local board should fail to appear at the hearing, the superintendent and those supervisors and town clerks entitled to become members of the board, who do appear, may proceed with the hearing and render a decision thereon. If all supervisors and town clerks entitled to become members of such board should fail to appear at the hearing, the superintendent may proceed without them and decide on the merits of the objections offered.

But if the superintendent should not attend and if the town officers should attend, they would not have the authority to proceed, and the preliminary order issued by the superintendent would become void. In a case of this kind proceedings could be renewed if desired.

A local board has power to adjourn from time to time, but such adjournments cannot extend the date of the hearing beyond the time designated in the preliminary order when such order shall take effect.

At the hearing before the local board those interested who are opposed to the order of the superintendent may present their evidence and arguments against the wisdom of the proposed changes, and those, in favor may also present evidence and arguments in support thereof.

After all evidence and arguments have been presented, the local board must decide by vote either to affirm or vacate the order of the superintendent. Each member of the local board is entitled to a vote, and a majority decides the action to be taken. If the local board decides to vacate the order of the district superintendent, the matter is ended and the changes cannot be made. An appeal from such decision may be taken to the Commissioner of Education, who may affirm, modify, or vacate such order. A record of the action of the local board must be filed in the town clerk's office.

If the local board votes to confirm the order of the superintendent, a final order must be made by the superintendent and members of such board, directing that the alterations be made.

This final order must recite the first order and all the proceedings taken thereafter, including the action of the local board.

Consolidation of School Districts.— The whole plan of altering the boundaries of school districts, dissolving such districts and the consolidation of districts has been modified by the provisions of the Township Law. While a district superintendent may change the boundaries of school districts, the cases, if any, in which such action is necessary are rare. If such cases do arise a district superintendent must proceed in the manner provided before the adoption of the township system. There are, of course, no trustees of school districts who may give consent as required under the law to the alteration of the boundaries of a school district. Such consent must now be obtained from the town board of education. The law known as the Township Law requires each town board to perform any duties or obligations legally imposed upon the former officers known as school trustees.

If it appears desirable to consolidate two or more districts in any town, the district superintendent having jurisdiction may take the initiative by issuing an order of consolidation. After the district superintendent issues such order, he must deliver a copy thereof to the town board of education for the consideration of that body. The town board of education may, at a regular or special meeting, consider such order and determine whether it should be approved or disapproved. If the town board disapproves such order, no further action may be taken in relation to the consolidation. If the town board of education approves such order, a meeting of the voters of the several districts affected by such order should be called. The town board of education should direct its clerk to give at least six days' notice of the time and place of such meeting to each of the voters residing in the school districts affected by such order. The meeting should be held at the most central and convenient place for the voters of the several districts. A record of those voting on the proposition should be made and such record should show the district in which each voter resides, and how each voter voted on the proposition. It is suggested that a separate record be made of the votes cast by residents of each district as this will aid in making a canvass after the polls have been closed. After all persons have voted who desire to vote, a canvass should be made of the votes cast. The order of consolidation does not become effective unless a majority of the votes cast in each district is in favor of such con-

solidation. A district superintendent should not, therefore, include in an order of consolidation a district in which he knows the sentiment to be opposed to consolidation. The unfavorable vote of one district would defeat the entire proposition. It is wise, therefore, to include in the order of consolidation those districts only in which it is known that public sentiment is in favor of the consolidation.

After the proceedings are completed, the district superintendent should file his original order, the original approval of the town board, the notice of the meeting at which the voters of the several districts voted on the confirmation of such order, and the record of the proceedings of such meeting, properly certified, in the office of the clerk of the town. Copies of all such original papers should be filed in the office of the clerk of the board of education of the town, and also with the Commissioner of Education.

REVIEW QUESTIONS

What is the number of school districts in the State? What is the law in relation to the division of all territory in the State? What are the two classes of districts? When was the district system first inaugurated? How? What change was made in 1812? When were union free schools authorized? Define each. What is a public school? What are the limits of a school year? Who are entitled to attend a public school? For what period may such persons attend? When was the free-school act passed? What is the law in relation to the apportionment of public money on the attendance of pupils over 18 years of age? Who may attend a kindergarten? How may non-resident pupils be admitted to school? Who determines the conditions upon which they are admitted? What is the law in relation to charging such pupils' tuition? What is meant by transfer of pupils to another district? What is the law regulating the attendance of Indian pupils upon a public school?

Where should a description of each school district be filed? What should be the character of this description? How should districts be numbered? When may a joint district be dissolved? How?

A. district superintendent may alter the boundaries of what union free-school districts? After a union free-school district has been organized what time must elapse before it can be dissolved? How may a union free-school district which has been established for more than one year be dissolved? How is such special meeting called? When should it be called? How should the vote on this question be taken? What vote is necessary in order to change to a common-school district? When a proposition to change from a union free-school district to a common-school district is defeated, what period of time must elapse before another meeting may be called to consider such proposition? What must be done with all papers in the proceedings when a union free-school district votes for a change? What should the superintendent do if he approves the change? When does the dissolution

go into effect? If the superintendent fails to approve such action, when may another meeting for the same purpose be held? When may a superintendent make his approval conditional? What is done with the territory of a union free-school district when such district has been dissolved? When a district is thus dissolved and it had contained an academy which was converted into an academic department of such union free-school district, what must the board of education do with such academy? What papers relating to such dissolution must be filed with the Commissioner of Education? What appeal may be taken in these matters?

When two or more dissolved districts are consolidated into a new district, what becomes of the property of such dissolved districts? What becomes of the property when such districts are attached to other districts? What notice of such sale must be given? How are the expenses of such sale met? What disposition is made of the remainder of such fund?

How may the outstanding money of a dissolved district be collected? What is done with money thus collected? What is the duty of a district superintendent in relation to such matters? What powers does a dissolved district possess as a district? What disposition should be made of the books, papers, and records of a dissolved district? Who should direct this? What is the penalty for failing to comply with this direction? What are the two methods by which a school district may be altered? If the boundaries of one district are changed, what must follow? In what form should trustees' consent be given? What is done after the consent of the trustees is given? What must be done with the superintendent's order? What facts should the order of the superintendent recite? With whom should copies of such order be filed? Can a trustee consent to transfer his own land from one district to another?

By whom is a preliminary order issued to change the boundaries of a district when the trustees will not consent to such change? Where must such order be filed? What must it show? When must it take effect as to the dissenting districts? What notice must the superintendent give to the trustees dissenting to such changes? What must such notice contain? What officers may be associated with the superintendent at the hearing upon such order? Can these officers act if not requested by the trustees? What must these officers do to establish their jurisdiction to act? What would be the effect if either of these officers should act without being properly requested to do so? Can these officers be required to act in this capacity? If only part of the officers requested to act in this capacity should appear at the hearing, what should be done? If none of such officers requested should appear, could the superintendent legally act in their absence? If the superintendent should fail to appear and the other officers should appear, what could be legally done?

Can this board adjourn? For what period? What should be done at the hearing? What must be done with the records of the proceedings? If affirmative action is taken on the original order, what is the next step? What must the final order contain? Explain fully the method by which two or more school districts may be consolidated.

CHAPTER VII

DISTRICT MEETINGS

[Article V]

General Statement.—The only school districts which hold district meetings are union free-school districts having a population of 1,500 or more or employing fifteen teachers or more. These union free school districts are not under the provisions of the township law and they continue to hold annual meetings as in former years and under the same provision of law which such meetings have formerly been held. There is no legal authority for holding district meetings in any of the school districts under the township law, except to vote upon the consolidation of such district with another district when a meeting is called by the town board of education.

ANNUAL MEETING

Notice in Union Free-School District.—The clerk of a union free-school district who is the clerk of the board of education should give notice of the annual meeting by publishing the same in two newspapers in the district, once in each week during the four weeks next preceding the date of the annual meeting. If there are not two newspapers published in the district, then such notice should be printed in one paper. If no newspaper is published in such district, then such notice must be posted in at least twenty conspicuous places for at least twenty days before the time of such meeting.

Date.—The date fixed by law for the annual meeting of a union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, is the first Tuesday of May. The board of education of such district may adopt a resolution fixing the time of the annual meeting as the first Tuesday in August.

In a union free-school district whose boundaries *do* coincide with the limits of an incorporated village or a city no annual meeting is held. The election of officers in such districts occurs at the charter election and the usual business of the district is transacted by the board of education.

Hour.— Unless a previous annual meeting has fixed some other hour, the meeting should be held at 7:30 o'clock P. M.

Place.— The annual meeting must be held in the schoolhouse of the district unless otherwise voted by the district. If the district has two schoolhouses, the meeting should be held in the one generally used for that purpose. The trustees, however, may designate the other school building. A district may vote at an annual meeting or a special meeting called for that purpose, that future meetings shall be held at some other place than the schoolhouse. If the district has no schoolhouse, the meeting must be held at some place designated by the trustees.

Failure to Hold Annual Meeting.— If the date of the annual meeting has passed and such meeting has not been held in a certain district, the board of education or clerk of such district should call a special meeting to transact the business of the annual meeting. If the board of education or clerk of such district should fail to call such special meeting within ten days after the date fixed by law for holding the annual meeting, the district superintendent having jurisdiction over such district may order any resident of such school district to give notice that such meeting will be held. This notice must be given in the same manner as notices of special meetings.

The district officers should make to such meeting the reports required to be made at annual meetings. A failure to make such reports subjects district officials to the same penalty that is imposed for a failure to report at annual meetings. Officers elected at such meeting are entitled to serve until the date of the next annual meeting and until their successors have been elected and have qualified.

Notice of Adjourned Meeting.— When any meeting of a district has been adjourned for more than one month, the clerk of the district must post notices of the time and place of such adjourned meeting in at least five of the most public places in such district and at least five days previous to the time appointed for such meeting.

Legislative Body of District.— The electors of a school district, when assembled in a meeting regularly convened, constitute the legislative body of such district and may transact any business relating to the school affairs of such district which is permissible by statute. As special meetings are called to transact special business, the annual meeting of a district is the one in which nearly all the business of a district is transacted. The more important mat-

ters coming before an annual meeting as provided by law are as follows:

Powers and Duties of Annual Meetings:

1. To select a presiding officer, to be known as *chairman*, and in the absence of the district clerk to select a clerk *pro tempore*.

2. To elect members of the board of education in the place of those whose terms of office expires.

3. To vote a tax upon the taxable property of the district, to purchase, lease and improve school sites or an addition to such sites and grounds, to hire or purchase rooms or buildings for school-rooms or schoolhouses, or to build schoolhouses; to keep in repair and furnish the same with necessary fuel, furniture and appurtenances, and to purchase such implements, apparatus and supplies as may be necessary to provide instruction in agriculture and other subjects, and for the organization and conduct of athletic, playground and other social center work. A schoolhouse site can only be designated at a special district meeting called for that purpose.

4. To vote a tax for the establishment, maintenance, support, and increase of a school library, and to purchase a bookcase.

5. To vote a tax to supply a deficiency caused by a failure to collect a former tax, also for the purpose of providing a record book for the district.

6. When district officers have lost or embezzled any of the funds of a district, the annual meeting may vote a tax upon the district to replace such funds.

7. The annual meeting may also vote a tax upon the district to meet the expenses incurred by the district officers in defending suits or appeals in the district's behalf and also in prosecuting suits or appeals in its behalf, when directed.

8. The district may also vote a tax to pay teachers' wages as they become due, and to pay any judgment obtained from a competent court by a teacher for teacher's salaries.

9. An annual meeting may direct the trustees of a district to insure in any insurance company created under the laws of this State, or authorized to do business in the State, the school buildings, furniture, apparatus, etc.

10. A majority of the voters of any school district, present at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations, repairs or improvements, to the sites or

buildings belonging to the district, or for the purchase of other sites or buildings, or for a change of sites, or for the purchase of land and buildings for agricultural, athletic, playground or social center purposes, or for the erection of new buildings, or for buying apparatus, implements, or fixtures, or for paying the wages of teachers, and the necessary expenses of the school, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve. But no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any schoolhouse, or for the purchase of lands and buildings for agricultural, athletic, playground or social center purposes, or for building any new schoolhouse or for the erection of an addition to any schoolhouse already built, shall be voted at any such meeting in a union free-school district unless a notice by the board of education stating that such tax will be proposed, and specifying the object thereof and the amount to be expended therefor, shall have been given in the manner provided herein for the notice of an annual meeting.

Method of Voting.—All questions involving the expenditure of money or the levying of a tax upon a district must be by ballot, or by taking and recording the ayes and noes of the voters present and voting.

SPECIAL MEETING

Notice of Special Meeting in Union Free-School District.—The notice of all special meetings should be given by the Board of Education and in the same manner that notice of annual meetings is given. The notice of such meetings may be signed by the president and the clerk of the board, but this must be done under the direction of the board. The notice should state explicitly when and where the meeting will be held and the purpose for which it is called.

Penalty for Refusing to Serve Notice.—Any taxable inhabitant of a district who refuses to serve a notice of special meeting when legally requested forfeits the sum of \$5 for the benefit of the district.

Power of District Superintendent to Call Special Meetings.—A district superintendent may call and give notice of special district

meetings for any school district under his jurisdiction when the offices of clerk and all trustees for such district are vacant.

Failure to Notify All Voters.—If the failure to notify all voters of a district meeting can be shown to be wilful and fraudulent, the proceedings will be declared illegal upon appeal in proper form to the Commissioner of Education. If such omission of notice appears accidental or if the presence of the person failing to receive such notice would not change the result of the action of such meeting, or if such person attended the meeting, the proceedings will be declared legal. All matters of this character in dispute should be presented to the Commissioner of Education in the form of appeals.

Powers of Special Meetings.—The only business which can be considered at a special meeting is that for which the meeting was called and which was designated in the notice of such meeting.

The only purpose for which a special meeting in a union free-school district whose boundaries are the same as those of an incorporated village may be held, are for the authorization of improvements to school property as provided in section 467 and the issuance of bonds therefor, or such other purpose as the charter or special act of a district whose boundaries are coincident with the boundaries of an incorporated village may particularly specify.

REVIEW QUESTIONS.

In what districts are meetings held? In what ones are they not held? What notice must be given of an annual meeting in a union free-school district? Does a failure to give such notice invalidate a meeting? When does the annual meeting occur? At what hour? At what place? May it be held elsewhere? When? If the annual meeting is not held on the date fixed by law, what should be done? What business should be transacted at the meeting when called? For what period do the officers elected at such meeting serve? What notice must be given of a meeting adjourned for more than one month? What is the legislative body of a school district? What power has an annual meeting in relation to selecting a chairman? A clerk *pro tempore*? District officers? Name the various purposes for which a district meeting may vote a tax? What direction should an annual meeting give trustees in relation to the insurance of property? How must a vote involving expenditure of money be taken? What notice of a special meeting must be given? How is service made? What return should be made? What is the penalty for refusing to serve notices? When may district superintendent call special meeting? What is the effect of failure to notify all voters? What business may be transacted at a special meeting? What limitations are there to certain union free-school districts?

CHAPTER VIII

VOTERS AT TOWN SCHOOL AND UNION FREE-SCHOOL DISTRICT MEETINGS — QUALIFICATIONS, CHALLENGES, ETC.

[See Sections 203, 204 and 205]

Note.—The qualifications of voters at town school and union free-school district meetings are the same. No distinction is made by law between the qualifications of voters in these two administrative units or in the penalty for illegal voting therein. Under the provisions of the Education Law, there are four classes of persons entitled to vote at such meetings. These classes are clearly defined in a circular letter issued by the Education Department, as follows:

WHO ARE VOTERS.—Four classes of persons are entitled to vote at school district meetings. All voters must have the following general qualifications:

General Qualifications

1. A citizen of the United States.
2. Twenty-one years of age at least.
3. A resident within the district for a period of at least thirty days next preceding the meeting at which he or she offers to vote.

Any person who possesses the above general qualifications and any one of the four special qualification is entitled to vote:

Special Qualifications

1. One who owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes.
2. One who is the parent of a child of school age, provided such child shall have attended the school in the district or town in which the meeting is held for a period of at least eight weeks within the school year preceding such school meeting.
3. One who, not being the parent, has permanently residing with him or her a child of school age who shall have attended the school in the district or town for a period of at least eight weeks within the school year preceding such meeting.
4. One who owns any personal property assessed on the last preceding assessment roll of the town exceeding fifty dollars in value, exclusive of such as is exempt from execution.

Women possessing any of the above qualifications are entitled to vote.

Both parents are entitled to vote when they have a child or children who

attended school in the district or town eight weeks during the year preceding such meeting.

But one such person, however, can vote where the right to vote depends upon their having children not their own residing with them, and that person must be the head of the family.

Residence.—A person to obtain a voting residence in a school district or town must actually reside in such district or town for a period of at least thirty days immediately preceding any annual or special meeting at which such person desires to vote.

Challenge of Voter.—No person can take part in the transaction of any business of a union free-school district meeting or a town school meeting who is not a legal voter at such meeting. The right of any person to vote at a school meeting cannot be questioned or challenged by any person except a duly qualified voter. When a person offering to vote at a school meeting is challenged by a qualified voter, the chairman of such meeting should require the person thus challenged to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district (or town) and that I am qualified to vote at this meeting." Any person who shall make such declaration is entitled to vote upon all propositions which arise at such meeting. A person thus challenged who refuses to make such declaration should not be permitted to vote upon any question before the meeting. Neither the people in attendance upon a meeting nor the officers of such meeting have authority to pass upon the qualifications of any voter. Even if the officers of such meeting *know* the declaration made by a person challenged to be false, they cannot refuse to accept his vote. The proper course to pursue is to accept such vote, and proceed against the offender as the law provides.

Penalty for Illegal Voting.—A person who has been challenged at any school meeting and who willfully makes a false declaration of his or her right to vote at such meeting is guilty of a misdemeanor which is punishable by fine or imprisonment or both.

A person voting at a school meeting held in a union free-school district or a town who has not been challenged and who is not a qualified voter at such meeting, forfeits the sum of ten dollars, which should be sued for by the supervisor of the town for the benefit of the district or town.

Under the Penal Law a person not qualified who knowingly votes or offers to vote, or who makes a false declaration when challenged at a school meeting is guilty of a misdemeanor.

Decisions of Education Department.—The following rulings have been judicially established, which govern questions at the present time involving these points of law:

1. An alien is not a legal voter at a school meeting, although he may reside in the school district or town, own lands therein, or have children of school age residing with him who attend school in the district or town.

2. The proceedings of a district or town meeting carried by illegal votes will be set aside on appeal to the Commissioner of Education.

3. When the illegal votes cast at a school meeting would not change the result of any of the proceedings of such meeting, the proceedings will not be set aside.

4. The chairman of a school meeting is entitled to vote upon all questions coming before the meeting for determination.

5. The chairman of a school meeting is not entitled to cast the deciding vote in case of a tie, if he has already voted on the question.

6. A man is not entitled to vote on account of the qualifications of his wife, nor is a woman entitled to vote upon the qualifications of her husband.

7. The law does not declare the *amount* of real estate which a person must own or rent to entitle such person to vote at a school district meeting.

8. The residence of a person must be *bona fide* to entitle such person to vote at a district meeting.

9. *Prima facie*, the place where a person lives is deemed his residence.

10. Where a person removes from one place to another with an *intention of making the latter his permanent residence*, that place immediately becomes his residence.

11. No person can vote upon *any* proposition before a school meeting who is not a qualified voter.

REVIEW QUESTIONS

Is there a difference between the qualifications of voters in union free-school districts and in towns? Is there in the penalty for illegal voting? Into how many classes may the voters be arranged? What are the qualifications of the first class? Second class? Third class? Fourth class? Can

a person vote at a school meeting if such person is not a resident of the district or town for which the meeting is held? State each of the four qualifications which a voter must possess. Can women possessing any of the four qualifications vote? Which of these four qualifications apply to married people? Which to single people? Who may vote on the qualifications of the second class, father or mother? Explain who are entitled to vote on the qualifications of the third class? What is a "residence?"

Who may challenge the right of a person to vote at a school meeting? What declaration must a person challenged make? What is the effect of a challenged person's making such declaration? A refusal to make such declaration? Can the officers of a school meeting pass upon the qualifications of a voter? Even if the officers *know* that a false declaration has been made, can they refuse to accept the vote of the person who made it? What course may be pursued in such case? What is the penalty for making a false declaration regarding the right to vote? What is the penalty for illegal voting at a school meeting when the voter has not been called upon to make a declaration?

Can an alien vote at a school meeting if he possesses all other qualifications of voters? What action may be taken upon any proceedings of a school meeting carried by illegal votes? If the illegal votes cast do not affect the result of any proceedings, what is the ruling of the Commissioner of Education? Upon what questions may a chairman of a meeting vote? Can a chairman cast a deciding vote in case of a tie if he has already voted on the question? May a man vote on qualifications possessed by his wife? May a woman vote on the qualifications of her husband?

Does the law fix the amount of real estate a person must own or rent to qualify him to vote? Explain the rulings of the Commissioner of Education as given in numbers 8, 9, and 10 of this chapter.

CHAPTER IX

SITES, SCHOOL BUILDINGS, BONDS, ETC.

[Articles XI-A and XVI]

Sites in School Districts Under the Township Law.— In a school district which is under the provisions of the township law the town board has the power to designate new sites or to enlarge existing sites. Such new sites or an addition to an existing site may be designated by the adoption of a written resolution by the town board of education. This resolution must receive the affirmative vote of at least a majority of the members constituting the town board. The resolution must also show the reasons why such sites or addition to a site are necessary and the land which it is proposed to acquire for such purpose must be described in such resolution by metes and bounds and the resolution must also contain an estimate of the amount of funds necessary to purchase such land. After the adoption of such resolution the land may be acquired by the town board of education as the education law provides real property may be acquired for school purposes.

Sites in Certain Union Free-School Districts.— A site for a schoolhouse in a union free-school district not under the provisions of the township law can be designated at a special meeting of such district. A written resolution in which the proposed site is described by metes and bounds must be adopted by a majority vote of the qualified voters present and voting. The vote upon such resolution must be by taking and recording ayes and noes or by ballot. A record of such vote must be made, showing how each person voted upon the proposition.

A district of this class, at a special meeting, may designate two or more sites with the approval of the district superintendent having jurisdiction. The notice of such special meeting must state the proposed number of sites that will be voted upon.

Improvement of Site.— The voters at such a union free-school district meeting may vote to improve the site or sites of such district or they may vote to enlarge such site or sites.

Tax for Site.—The voters of such a union free-school district may vote a tax to purchase, lease, and improve the sites of such district. This tax must be levied and assessed in the same manner as taxes for other school purposes.

Change of Site.—The legal voters of such a union free-school district may by a majority vote at a special meeting called for that purpose, adopt a written resolution designating a new site and describing it by metes and bounds. The vote on such resolution must be by ballot or by taking and recording the ayes and noes.

Disposition of Proceeds of Sale of Site.—The proceeds derived from the sale of such property must be applied on the expense of procuring a new site, of removing or erecting thereon a school-house, and of improving and furnishing the site, the school-house, and their appendages, so far as may be necessary. If a surplus should remain, it should be devoted to the purchase of school apparatus or used for any other support of the school, as the voters at an annual meeting may choose to direct.

Designate Sites Without Vote of District.—In a union free-school district containing 5,000 or more inhabitants the board of education may without vote of the district designate a site or sites, or an addition to a site or sites.

Acquisition of Sites.—Where the owners of land will not consent to the sale of such lands for sites for school buildings, such lands may be acquired without their consent under the provisions of the Condemnation Law.

The following property cannot be taken by this method without the consent of the owners:

1. A homestead occupied as such by the owner. Except such portion thereof as may appear to the court to be unnecessary for the reasonable use and enjoyment thereof.

2. A garden, orchard, or any part thereof, not within a city which has existed for a period of one year prior to the beginning of the condemnation proceedings.

3. A yard or inclosure, or any part thereof, necessary to the use or enjoyment of buildings.

4. Fixtures or erections for the purposes of trade or manufacture which have existed for a period of one year prior to the beginning of the condemnation proceedings.

5. The whole of a city or village lot with the erections and improvements thereon.

Sale of Former Site.—Whenever the site of a schoolhouse is changed in a union free-school district the legal voters of the district at a special or an annual meeting duly convened, may, by a majority vote, direct the sale of the former site and the buildings thereon at such price and terms as they deem proper.

Transfer of Title.—The board of education, when so directed by a district meeting, may execute a deed transferring the interest and title of the district to such property, and such deed is valid and binding.

Bond and Mortgage or Other Security.—Whenever a union free-school district meeting directs that credit may be given to the purchaser of such property for any portion of the amount paid therefor, the board of education has authority to take in their corporate name security by bond and mortgage or otherwise, as they shall deem best. The board of education holds such security as a corporation and should account therefor to their successors in office and to the district in the same manner as they are now required by law to account for moneys received by them. A board of education in its official capacity may sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

School Buildings; Erection; Repair; etc., in Towns.

1. A town board of education is required to provide for the repair of school buildings under its supervision and all other buildings under its control and management. It may expend for this purpose an amount not in excess of the amount included in the annual school tax budget.

2. A town board of education may also remodel or enlarge school buildings or other buildings under its control and supervision, and it may also construct new buildings whenever the proper accommodation of the school children of the town requires such additional school facilities.

3. A town board of education shall not expend in any one year for the remodeling, or enlarging, of existing school buildings, or for the construction of new buildings, an aggregate amount in excess of one-half of one per cent of the assessed valuation of the town, and in no case shall the amount for this purpose in the aggregate be in excess of five thousand dollars, unless such excess amount has been authorized by a vote of the qualified electors at a town school meeting. The amount which a board is authorized to expend for the ordinary repair of school buildings as outlined in para-

graph 1 is not included in the limitation imposed upon a board of education for remodeling, improving or enlarging existing buildings, or constructing new buildings. In other words a board of education might expend an amount equal to one-half of one per cent of the assessed valuation of the town for a new building or for remodeling, enlarging and improving an existing building and in addition thereto such board might expend any reasonable amount for the ordinary repair of school buildings.

4. When a board of education deems it necessary to expend an amount in excess of the limitation expressed in the above paragraph such board should submit a proposition therefor to a vote of the qualified voters of the town at either an annual town school meeting or a special town school meeting.

Condemnation of School-house.— When a district superintendent has condemned a school building in a town as unsatisfactory for use and not worth repairing and has expressed in the order of condemnation an amount necessary to erect a new building in excess of the sum of five thousand dollars, it is the duty of the board of education to call a special meeting of the electors of the town and submit to them the proposition for the construction of a new building at an expense specified in the order of condemnation of the district superintendent. If the electors of the town authorize such expenditure it is the duty of the board of education to proceed with the erection of such building as directed at the district meeting. If the meeting has authorized a tax to be raised by installment for the erection of such building the board of education may issue school bonds as provided in the education law.

If the electors do not authorize such appropriation at the town meeting it then becomes the duty of the board of education to proceed to erect such building and to include in its tax budget the amount specified in the order of the district superintendent as necessary for the erection of such building. A board of education may in its discretion reduce the amount of such appropriation by twenty-five per cent.

When a district superintendent has condemned a school building and has expressed in the order of condemnation an amount less than five thousand dollars as necessary for the erection of a suitable building, the board of education need not submit the question of an appropriation to the voters of the district. The board of education has the authority to include the amount necessary in such case

for the erection of the school building in its tax budget without a vote at a town meeting authorizing such expenditure.

Although a board of education possesses the power to include in the tax budget an amount less than five thousand dollars for the erection of a new school building, without a vote of the electors of the town such board may in its discretion submit to the voters of the town at either an annual or special school meeting the proposition involving an expenditure for the erection of a new building, the repairing, remodeling, improving or enlarging of an existing building, the purchase of a new site or of an addition to an existing site, when the expenditure therefor is not less than one thousand dollars.

5. When the voters at a town school meeting have authorized an expenditure for the erection of a school building or the repairing, improving or enlarging of a school building it is within the power of such voters to determine whether the expense incurred thereby shall be met in one tax levy or by installments.

Condemnation of Schoolhouse in Certain Union Free-School Districts.— When in the judgment of a district superintendent the schoolhouse of a union free-school district not subject to the provisions of the township law, is wholly unfit for use and not worth repairing, he may issue an order condemning such property and he should fix a time therein when such order shall go into effect. The superintendent should also direct in such order the expenditure of an amount which in his judgment is necessary to erect a schoolhouse for the accommodation of the children of such district.

Service of Order.— The superintendent must immediately serve such order upon the board of education of the district and transmit a copy thereof to the Commissioner of Education.

Board Should Call Special Meeting.— Immediately upon being served with a copy of such order, the board of education should call a special meeting of the district for the purpose of considering the question of building a schoolhouse.

The legal voters at such special meeting have power to determine the size of the building and the material to be used, and to vote a tax to build the same. The district meeting may also decrease the estimated amount of the superintendent for the erection of such building twenty-five per cent, and the district may also increase the amount estimated by the superintendent.

Failure of District to Vote Tax.—When a district fails to vote a tax to build a schoolhouse, within thirty days from the date on which the first meeting for considering the question was held, the board of education has power, and it is its duty to contract for the same. This tax shall not exceed the estimate of the superintendent and shall not be more than twenty-five per cent less than such estimate.

Tax for Erection of Schoolhouse in Certain Union Free-School Districts.—The qualified voters of a union free-school district not under the township law, at an annual school meeting or at a special meeting called for the purpose, may vote a tax for the erection or repair of a schoolhouse. There is no limitation in regard to the amount which a district may vote for this purpose unless there is a special act relating to such district which contains such limitation.

When a district of this type refuses to vote an appropriation sufficient to make any necessary repairs to the schoolhouse, the relief of any aggrieved person residing in such district is to bring an appeal to the Commissioner of Education who may order the district to make necessary repairs.

Payments by Installments.—When a union free-school district has voted a tax for the erection of a schoolhouse, it may by a majority vote at any meeting regularly convened, decide to raise the amount thus voted, by installments. The vote on the question must be by ballot or by taking and recording the ayes and noes. When such action is taken by a district meeting, it is the duty of the board of education to raise by tax such installments and the interest thereon, as they become due, in the same manner as other school taxes are raised. There is no limit as to the period of time for which the bonds in a union free-school district may be issued. No tax voted by a district meeting or other competent authority in any such city, or union free-school district exceeding the sum of five hundred dollars, shall be levied by the trustees until the Commissioner of Education shall certify that the plans and specifications for the same comply with the provisions of this law.

Notice of Tax Proposed for School Buildings.—No vote to raise money by tax to purchase a new site or to change or add to the present site, or to build a new schoolhouse, can be taken at a union free-school district meeting which is authorized to designate a site unless a notice by the board of education stating that

such tax will be proposed, and specifying the object thereof and the amount to be expended therefor, shall have been given in the same manner as the notice of the annual meeting is given.

Vote on Expenditure of Money.— On all propositions arising at such meetings, involving an expenditure of money or authorizing a tax levy, the vote must be by ballot or by taking and recording the ayes and noes.

Rescinding Vote or Reducing Amount.— No vote requiring money to be raised can be rescinded nor can the amount voted to be raised be reduced at a subsequent meeting, unless it is an adjourned meeting or a meeting called for such purpose. If it is a meeting called for such purpose, notice must be given in the manner in which all notices for annual and special meetings are given. The notices must state that the proposed reduction or the proposition to rescind the vote authorizing such money to be raised will be voted upon.

May Borrow Money and Issue Bonds.— 1. Whenever an annual or a special meeting of such union free-school district votes a tax to be collected in installments for the purpose of building a new schoolhouse or for repairing or enlarging the schoolhouse of the district or for the purchase of a new site or an addition to the present site, the board of education is authorized by law to borrow the money necessary at a rate not to exceed six per cent, and to issue bonds or other evidences of indebtedness therefor. The bonds shall be paid at maturity and shall not be sold below par.

2. When the voters at a town school meeting have authorized a tax to be raised by installments, for the purpose of repairing, remodeling, improving or enlarging school buildings or the construction of new school buildings, at an expense exceeding five thousand dollars, they may authorize the issuance of bonds or other evidences of indebtedness therefor. The rate on such bonds shall not exceed six per cent and they shall not be sold below par. The interest and principal thereof is a charge upon the town and must be paid when due. These bonds must be issued in the manner provided by section 480 of the Education Law.

Sale of Such Bonds.*— In a union free-school district whose

* For procedure relative to legalization of bond issues, see Article 2-A of Municipal Corporations Law, and to the registry of bonds, see Sections 10 and 11 of the General Municipal Law.

boundaries *do not* coincide with those of an incorporated village or a city, the board of education of such district shall give notice of the time and place of the sale of such bonds, at least ten days prior to the date of such sale. This notice may be given by being published twice in each of two newspapers of the district, if there are two, and in one paper, if there is but one. If no newspaper is published in the district, then a notice of such sale must be posted in ten of the most conspicuous places of the district, at least ten days previous to the sale. The trustees having charge of the issue or payment of such bonds are required to make an annual report thereof to the clerk of the board of supervisors of the county in which the district is located, on or before the first day of November.

In a union free-school district whose limits *do coincide* with those of an incorporated village or a city, such bonds must be prepared by the board of education and signed by the president and the secretary of such board and delivered to the treasurer of such incorporated village or city and countersigned by him. The treasurer of such village or city shall give notice of the time and place of the sale of such bonds in the same manner as it is required that boards of education of districts, whose limits *do not* coincide with those of an incorporated village or a city shall give such notice. The proceeds of the sale of these bonds must be paid into the treasury of such incorporated village or city to the credit of the board of education of such district.

The general municipal law relating to the sale of municipal and school bonds was amended by chapter 534 of the Laws of 1917, as follows:

All bonds hereafter issued by any municipal corporation, or by any school district or civil division of the State, shall be sold, in the case of a city of the first class as required by its charter or by any special act under which such bonds are issued, in the case of a city of the second class as required by section sixty-one of the second class cities law, and in all other cases at public sale not less than five or more than thirty days after a notice of such sale, stating the amount, date, maturity and rate of interest, has been published at least once in the official paper or papers, if any, of any such municipality, provided that if there is no official paper, then such notice of sale shall be published in a newspaper published in the county in which such bonds are to be issued, or a

copy thereof shall be sent to and published in a financial newspaper published and circulating in New York city.

Validation of Bonds.—The procedure in the issuance of such bonds is technical and a statutory process and each step outlined in the statute must be complied with. Very often the notices of school meetings and the other papers prepared in the proceedings leading to the necessary transactions to authorize the issuance of such bonds are defective. In many cases these papers are not prepared by lawyers and it often occurs that, after bonds have been sold, the attorney representing the purchaser of such bonds discovers defects in the procedure under which the bonds have been issued. This has necessitated a legalizing act by the Legislature. It was frequently necessary to wait several months for the Legislature to convene before the sale of the bonds might be finally closed out and funds obtained for the erection of the building.

To avoid such delays and to provide an effective, inexpensive method of meeting such situations power has been conferred upon the Commissioner of Education, to adjudicate all cases of this kind and to make an order ratifying and confirming all acts and proceedings which may be necessary to cure any defect existing in the proceedings leading up to the authorization, sale and issuance of such bonds. This act provides that any interested party may present the question to the Commissioner of Education. A board of education, a qualified elector, a taxpayer, the purchaser of bonds, or any person who may hold such bonds, may present the matter to the Commissioner of Education for the purpose of having any defect which may exist in the proceedings cured, and the sale and issuance of such bonds legalized and validated.

The Commissioner of Education is given broad powers in these matters. If he finds on investigation of a case which has been properly presented to him that the requirements of the statutes have been substantially complied with and that there has been a fair expression of the will of the qualified voters of the district or town and that the action taken was not affected or prejudiced by the defects in the law or the failure to give required notices, the Commissioner of Education may make an order ratifying and confirming the proceedings and determining that there has been a substantial compliance with the statute.

Under the terms of this law the decision of the Commissioner

of Education in such proceedings is final and conclusive, and not subject to review by the courts.

Approval of Plans.—No schoolhouse shall hereafter be erected, repaired, enlarged or remodeled at a cost to exceed \$500 in any school district or in any city of the third class until the plans and specifications for the same have been submitted to the Commissioner of Education and his approval indorsed thereon.

The Commissioner of Education is prohibited from approving plans which do not meet the following conditions:

a. At least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein must be provided.

b. At least thirty cubic feet of pure air every minute per pupil must be assured.

c. The facilities for exhausting the foul or vitiated air therein shall be positive and independent of atmospheric changes.

d. All halls, doors, stairways, seats, passage-ways and aisles and all lighting and heating facilities and apparatus arranged to facilitate egress and afford adequate protection in cases of fire or accident.

e. All exit doors shall open outwardly, and shall, if double doors be used, be fastened with movable bolts operated simultaneously by one handle from the inner face of the door.

f. No staircase shall be constructed with winder steps in lieu of a platform but shall be constructed with straight runs, changes in direction being made by platforms. No door shall open immediately upon a flight of stairs, but a landing at least the width of the door shall be provided between such stairs and such doorway.

Under this law the Commissioner of Education has adopted the following regulations:

The plans and specifications must be submitted in duplicate, the original set to be returned after the indorsement of approval, the duplicate to be retained on file at this Department.

The plans and specifications must show in detail the ventilation, heating and lighting of the building. The contract should include a guaranty that the system of ventilation described will provide at least 30 cubic feet of air every minute for each pupil. It will be necessary to give the size of windows, distance from top of window to ceiling and number of panes in sash.

At least 15 square feet of floor space and 200 cubic feet of air

space for each pupil to be accommodated in each study or recitation room must be provided. In this connection it will be necessary not only to state the size of the rooms (length, breadth and height) but also to give the number of individual desks to be placed in the room.

The plans and specifications must clearly show that proper provision is made in all respects "to facilitate egress in cases of fire or accident and to afford requisite and proper accommodations for public protection in such cases."

The windows in all study rooms and recitation rooms should be so arranged that the main light will come from the pupils' left. Supplemental light from the rear is allowable to meet special conditions. The windows should be grouped together as nearly as possible on the pupils' left so that the light may be massed, thereby furnishing a comparatively even distribution of light and minimizing areas of light and shadow.

The windows should extend as near to the ceiling as the principles of construction will admit and should be without transoms or unnecessary framework.

Any considerable area on the side to the left of the pupils that is without window surface should be opposite the space in front or in the rear of the pupils' desks.

The ratio of window surface to floor surface should be one to five. If the main light comes from the north or from a side of the building which is well shaded, the ratio should be one to four.

As far as possible the rooms and windows should be so arranged that the aisles may run the long way of the room.

In the primary grades the blackboards should be placed 24 to 26 inches from the floor, in the intermediate grades 28 to 30 inches and in the grammar grades 32 to 34 inches. Each blackboard should be provided with a trough at the bottom, which should have an open woven wire cover on hinges.

Special cloakrooms should be provided which should be thoroughly heated and ventilated.

A soft color should be used in finishing the walls—a light greenish gray. The ceiling should be white. The window shades should correspond in color with the walls.

Stairways Outside of Buildings.—It is the duty of trustees or boards of education of all school districts outside of the city of New York to provide stairways on the outside of all school build-

ings that are more than two stories high, with suitable doors connecting therewith from each story above the first. These may be built without a vote of the district, at a reasonable expense, which is chargeable to the district the same as other taxes. Such stairways shall be kept in good order and free from obstruction and should not be bolted or locked during school hours.

OUT-BUILDINGS

General Provisions.—It is the duty of a board of education to provide out-buildings on the school premises. The law provides that these buildings shall be as follows:

1. They must be suitable and convenient.
2. There must be two, and they must be entirely separated from each other. These two closets may be under one roof and over the same vault.
3. They must have separate means of access, and the approaches thereto must be separated by a substantial close fence, at least seven feet high.
4. They must be kept in a clean and wholesome condition.

A failure on the part of a board of education to comply with these provisions is sufficient reason for removing them from office, and for withholding from the district its share of public money from the State. Members of boards of education are personally responsible to the town or district for any loss in this respect through their negligence.

Any expense incurred by a town board of education in providing and maintaining these out-buildings when approved by the district superintendent may be raised by tax without vote of the town. A town board may include such amount in its budget.

A board of education may meet such expenses by payment from contingent fund or by tax upon the district or city without authorization by the voters thereof.

The Board of Regents has prescribed the following regulations to govern the maintenance and construction of toilets:

Outdoor Closets.—It is fundamentally important that all schools in city, village and country be provided with suitable toilet facilities. They cannot be suitable unless they are sanitary, and experience has demonstrated beyond the possibility of contradiction that the old type of outdoor watercloset, or earth closet, is

not sanitary or decent, but to the contrary is a constant menace both to health and morals.

As every boy and girl under the tutelage of the State is entitled alike to all essential safeguards, this statement necessarily applies to all schools regardless of size or location. The claim that the old type of outdoor closet has served all purposes of the district for generations and is therefore acceptable and suitable is without weight. To the contrary, experience with it in the past conclusively proves that it is wholly unfit and unsatisfactory. The public school surely ought not to be the last institution to make progress, and particularly in matters affecting the comfort, health and lives of the children who, obedient to the laws of the State, are in attendance therein. The excuse that a district cannot afford such improvements is an argument in favor of consolidation in such a case, in order to form a district that can afford to provide the facilities that are unmistakably essential to the pupils' welfare.

Regulations.—From what has been said, it is manifest that the only remedy for the outdoor closet is to abolish it. With that end in view and to insure in its place suitable and adequate facilities, the following regulations have been adopted:

1. Approval of plans for the construction of new school buildings and for the remodeling of old buildings cannot be given until provision is made for an approved system of sanitary closets.

2. All public schools must be provided with approved closet facilities before September 1, 1918.

3. Whenever it becomes necessary for a district to provide new toilet facilities before the expiration of the time limit established, such facilities must be of approved type.

The following types are approved to meet varying conditions:

1. A flush system. When water and suitable sewerage are available, schools will be expected to install this system.

2. A dry closet system.

3. A chemical system.

4. The L. R. S. type, described in Public Health Bulletin 51, published by the United States Treasury Department and issued by the Government Printing Office in 1914.

5. The type where water-tight nonabsorbent receptacles, easily removable, are provided and clean dust or ashes is supplied and scattered freely over the excreta whenever the closet is used. The use of this type is restricted to isolated rural districts with small

enrollment and low valuation, and special permission must be secured in every case.

In all types the following conditions must be met :

a. The closet or toilet must be in a room attached to and made a part of the school building.

b. The wall and ceiling of this room must be constructed and finished in like manner as other rooms of the building.

c. The urinals must be constructed of noncorrosive, nonabsorbent material.

d. In all cases the rooms must be well lighted and ventilated.

e. Toilet paper, wash bowl or basin and towels (paper towels) must be furnished.

f. Toilet rooms must be heated in all cases where it is practicable to do so.

g. Before constructing sanitary closets, a simple sketch of the rooms and approaches and a description of the closet must be submitted to the State Department of Education for approval.

In the last three types named, the following additional conditions must be met :

a. Receptacles must be of ample capacity and must be of noncorrosive and nonabsorbent material.

b. Provision must be made for the ventilation of receptacles by means of ventilators extending through the roof.

c. There must be a thoroughly ventilated approach leading to the closet from the coat room, corridor or hallway of the building.

d. All receptacles must be of a type to be emptied outside of class rooms, recitation rooms, hallways and toilet rooms, and the construction must be such as to facilitate this process.

e. The vaults must be tight so as to render the entrance of flies, mosquitoes and other insects absolutely impossible.

f. Seats must be hinged and made to close automatically.

Plumbing.—1. Plumbing must conform to local ordinances where such are in force. Where none exist, commonly accepted standards as exemplified in city ordinances shall govern.

2. When no sewerage system is available for use, an application must be made to the State Department of Health for approval of a sewage disposal plant, as that department has exclusive jurisdiction over the disposition of sewage.

3. In other than rural communities, both local and general vents must be provided.

4. One seat should be provided for every 25 girls and one seat and one urinal for every 40 boys, or a combination seat and urinal for every 25 boys. Both seats and urinals should be separated into compartments. Absorbent or corrosive materials cannot be approved for use in the construction of urinals.

Transfer of School Property to the Town.—The school buildings in the several districts of a town unit were erected and paid for by the taxpayers of the several towns. These buildings are therefore the property of such districts and may not be taken over by another corporation without such districts receiving due compensation therefor. In other words one corporation cannot take the property of another corporation without due process of law and without due compensation. The township plan proposes that the town as a school unit shall become a new corporation to perform the business which the several districts performed, and that this new corporation shall succeed to all the rights of the property formerly held by the several school districts. This property, of course, cannot be taken by the town unless adequate compensation is paid the district for the property thus taken. A plan is proposed in the law to meet this situation, which is as follows:

1. It is provided that a value shall be fixed upon all the school property of the several districts in each town. A commission is authorized to appraise and determine the value of such property. This commission consists of the supervisor of the town, the chairman of the town board of education and the district superintendent of schools. The law provides that this commission shall within one year from the time the township law took effect fix a value upon such school property.

2. Having appraised and fixed a value upon the property of each district this commission should deduct therefrom the outstanding bonded indebtedness against each of such districts. The town assumes the outstanding bonded obligation. The town must also reimburse the several school districts for the value which the commission has fixed upon the school property. This amount must be raised by a town school tax as other school expenses are raised. Such tax must be levied and collected in five equal annual installments and the amount required for this purpose must be included by the board of education in the annual tax budget of the town, beginning with the year 1918.

3. This commission must apportion the amount credited to each

district among the owners or possessors of taxable property in the district in the ratio of their several assessments on the last corrected assessment roll of the town. A written report should be made by the commission to the board of education of the town showing the apportionment which such commission has made. The board of education should then issue to each of the owners or possessors of taxable property a certificate of credit showing the amount which has been apportioned to each of such persons. This certificate of credit is transferable and shall be payable annually out of the amount raised by the board of education for that purpose. The board of education in issuing such certificates shall issue them in such denominations and shall fix the date of maturity at a time so as to provide for the payment of such certificates out of the funds raised by tax for that purpose.

4. The law makes it the duty of the Commissioner of Education to prescribe rules governing this commission in its appraisal of the school property and to regulate the distribution and apportionment of credits and charges provided under the plan of fixing the value of such property and also the form and denomination of the certificates. The law seeks to further safeguard the rights of the taxpayers of the town, as well as the rights of the property owners of school districts, by providing for an adjustment of any erroneous action or any unjust disposition of these matters through an appeal to the Commissioner of Education who is authorized to hear any question or difference of opinion in the whole transaction and to determine the equities therein and make all necessary orders to make his determination effective.

Use of School Buildings.—1. The use of a school building in a district or city must be granted for holding any examination or institute appointed therein by the Commissioner of Education. No charge can be made for the use of such building for these purposes but a reasonable allowance may be paid for lighting, heating and janitor service.

2. When a building is not in use for school purposes it may be used on approval of the board of education by persons desiring to give or receive instruction in any branch of education or learning or in the science and practice of music. (See also chapter 10, powers and duties of trustees.)

3. The most comprehensive law enacted in any State in relation

to the use of schools, grounds and buildings was enacted by the Legislature of New York in 1913.

This law confers upon local school authorities the power to employ persons to supervise and conduct athletic, play-ground and social center activities when authorized by a district meeting. Regularly employed teachers may be paid additional compensation for services rendered in supervising and conducting these activities.

This law further provides for the use of schoolhouses and grounds outside of school hours. Under these provisions of the law school grounds and buildings may be used for social, civic and recreational meetings and entertainments and other uses pertaining to the welfare of the community in general. These meetings must be open to the public, and no fee may be charged unless the proceeds are to be used for an educational or charitable purpose.

Upon petition of twenty-five or more citizens of a city, union free-school district or town, the board of education is required to organize and conduct community centers for civic purposes and civic forums to promote and advance principles of Americanization. Funds must be provided by local authorities for the maintenance of such centers or forums and such authorities may prescribe rules to make the same self-supporting. Such centers and forums must at all times be under the control of the board of education and must be nonexclusive and open to the public.

It should be understood that under this provision of the law, school property is not open to the use of a religious denomination, a fraternal, secret or other exclusive society or organization.

A district meeting possesses the power to authorize the use of school buildings for political meetings, and for polling places for primaries and general elections.

Sale of Buildings.—When a union free-school district decides to build a new schoolhouse, the district meeting should direct what disposition should be made of the old building. This is usually done by directing the board to sell it at public auction. The district meeting may, however, direct some other course to be pursued.

The school buildings may be sold when a district has been dissolved and the buildings are no longer needed for school purposes.

The school buildings may also be sold when the site of the buildings has been changed.

Insurance of Buildings.—The board of education of a town or of a union free-school district should insure the buildings under

its control. The powers of the board in this respect are explained fully in the chapter treating of the powers and duties of boards of education of union free-school districts.

Sale of Liquors Prohibited Near Schoolhouses.—Traffic in liquor is prohibited in a building, yard, booth, or other place which shall be on the same avenue or street and within 200 feet of a building used exclusively as a schoolhouse. The measurements must be taken in a straight line from the center of the nearest entrance to the building used for such school to the center of the nearest entrance to the place in which such liquor traffic is desired to be carried on. This prohibition, however, does not apply to a place which on the 23d day of March, 1896, was lawfully occupied as a hotel, or in which the traffic in liquors was lawfully carried on or which was in process of construction. (Subdivision 2, section 23, Liquor Tax Law.)

REVIEW QUESTIONS

Explain fully how a site or an addition to a site is designated by a town board of education? What meeting can decide upon a site for a schoolhouse in a union free-school district? How must such decision be determined? What must the resolution contain? How must the vote be taken? What record must be made? When may such a district designate more than one site? What must the notice of a special meeting state? How can the site of such a school district be improved or enlarged? At what meetings? What tax may such a district vote in relation to sites? Is there a limit to the amount that can be voted? How is such tax levied and assessed? How may the school site of such a district be changed? What property cannot be taken for a site? What disposition is made of the old site and buildings of such a district when a change of site has been legally made? How may the title of such property be transferred? What disposition must be made of the proceeds of the sale of such property? When may a board designate a site without vote of the district?

How may land be acquired for school purposes when the owner refuses to sell? Mention five kinds of property which may not be taken for school purposes?

Who is required to keep school property in repair which is under the control of the town board? What powers has a town board in this respect? What limitation is imposed upon a town board in the expenditures it may make for such purpose? How may a board obtain authority to expend a larger amount? What action should a town board take when a district superintendent condemns a school building? What is the duty of a town board when the people refuse to vote the required amount of funds? When may a town board erect a school building without vote of people? When may funds authorized be raised by installment? When may a district superintendent

condemn a school building in a union free-school district? How? What estimate in regard to the expenditure in erecting schoolhouse should the order of the district superintendent contain? Upon whom must the district superintendent serve such notice? What is the duty of the board when served with such notice? What power has a meeting in relation to such matters when regularly called? May the district decrease the estimate of the district superintendent? By what amount? May the amount be increased? How much? Within what period should a district vote to build? What is the duty of the board if the district takes no action within that time? What tax in this case may a board levy without a vote of the district?

When may a board of education of a union free-school district raise funds for a new school building by installments? What limit as to time if any is imposed? What approval must be obtained in certain cases? How must a vote authorizing such expenditures be taken? By what method may a vote authorizing such expenditure be rescinded or the amount reduced? What must the notice of such meeting contain and how must it be given? When may bonds be issued? What limitations are imposed upon the sale of such bonds? Explain fully the sale of bonds in a district whose boundaries do not coincide with the boundaries of an incorporated village. In one where they do so coincide.

Is it essential that all proceedings relating to a bond issue shall be in strict accordance with the law? Why? What officer is authorized to correct proceedings in such bond issue? In what cases? Upon whose application? What action must such officer take first? What orders may he make? What is the effect of such order?

What is the requirement of the law in relation to the approval of plans for the construction of a schoolhouse? What is the requirement as to floor space? Amount of pure air? The exhaustion of foul air? Doors, halls, stairways, seat, aisles, etc? Exit doors? Staircase? Define fully the requirements under the regulations of the Commissioner of Education. What is the requirement as to outside stairways?

Name four specific requirements in relation to outbuildings. What penalty may be imposed upon a district or town for failure to observe these requirements? Upon a board of education? How is an expense incurred paid? What recommendation has the Board of Regents made in relation to outdoor closets? Why? Name three general regulations prescribed by the Regents. Name and describe each of five types of closets approved by the Regents. Name seven conditions which must be satisfied by each of these types. Name six additional conditions which must be satisfied by three of the other types and specify such types. Name five conditions regulating the plumbing of toilets.

Why is it necessary to fix a value upon all school property in school districts which go under the township law? What commission is authorized to appraise such property? Within what time must this be done? What becomes of the bonded indebtedness of school districts? Who is entitled to reimbursement? Why? How are funds obtained? Within what period of time? How is this money apportioned? What certificate is issued? Why? Explain by whom and in what manner such certificates are issued. By whom

are regulations prescribed? How may errors or defects in procedure in such matter be corrected?

State the various purposes for which school buildings may be used. State the prohibitions as to the use of such buildings. When may a schoolhouse be sold? By whom? What is the law in relation to the insurance of school buildings? What is the prohibition as to the sale of liquors near a schoolhouse?

CHAPTER X

TOWNSHIP SYSTEM

[Chapter 328, Laws of 1917 or Article XI-A]

General Statement.— For more than fifty years there has been discussion in educational circles, and at various times in the Legislature, on what has generally come to be known in school matters as the township school system. The township plan contemplated the abandonment of the school district system and the substitution therefor of a town unit in the administration of schools. The township bill, introduced into the Legislature by Assemblyman Machold in the Assembly and by Senator Halliday in the Senate, passed both branches of the Legislature, and on May 2, 1917, received the approval of Governor Whitman. Under the terms of this law of 1917 the old school district system, which had its inception in the year 1795, is abolished and the schools of an entire town are placed under the control of one board, known as the town board of education. Every State which borders New York had previously adopted the township system and was administering the affairs of its rural schools with the town as the unit instead of the school district.

The township law does not include within its provisions any of the following school districts:

1. A union free-school district having a population of 1,500 or more.
2. A union free-school district employing 15 teachers or more
3. The school districts within the county of Nassau.

All other territory in the several towns of the State is brought under the control of the township system by the provisions of this law. A school district which did not satisfy one of the three exemptions above stated on the second day of May, 1917, is under the township system. The fact that a union free-school district may hereafter reach a population of 1,500 or more, or that such district may hereafter employ 15 teachers or more, does not operate to take such district out of the control of the township law.

Town School Units.—The township law provides that in a town having two or more union free-school districts, each having a population of less than 1,500 and each maintaining an academic department which has been admitted to the University of the State of New York, the district superintendent must by order divide such town into as many town school units as there are such union free-school districts situated in the town. The district superintendent was required to make such division of town units immediately after the law became effective.

It was the duty of the district superintendent in making these divisions to take into consideration the accessibility of the outlying districts to the school maintained in the union free-school district. This action was necessary because the academic department of the union free-school district was intended to be available to all the pupils residing in the town school unit. No school district might be divided in forming a town school unit. Each town school unit is entitled to a separate board of education. It was the duty of the district superintendent to execute in triplicate his order dividing the town, to file one copy of such order in the office of the town clerk of the town, one in the office of the Commissioner of Education and the third to be retained in the office of the district superintendent.

Each town school unit is to be considered in all respects as a town for the purposes of the town school act. Wherever the word "town" is used in the township law it refers to a town school unit. The terms "school officers," "school meetings," "school elections," etc., must always be construed as referring to the town school unit. A town school unit may be either an entire town or a portion of a town.

Consolidation of Town School Units.—1. Two or more town school units in the same town may be consolidated into one unit. A proceeding for this purpose should be initiated by the voters of the units desiring to consolidate. Twenty-five of the qualified voters of each of such units may petition the district superintendent to have the two units united and placed under the control of one board of education. A district superintendent who receives such petition should direct the board of education of such town units to submit to the voters of their respective units at the next annual school meeting the question: "Shall all the schools of the town of be placed under the jurisdiction of one town board of

education?" If a majority of the voters of each of these units voting at such election vote in favor of the proposition the consolidation is adopted and becomes effective one year from the first day of August next following such annual meeting. One year from the first day of August next following the meeting at which such vote was taken the terms of office of the members of the boards of education of such town units shall terminate. At the annual meeting held next after such consolidation is authorized a single board shall be elected for the territory thus consolidated.

2. A union free-school district not under the provisions of the township law may come under the provisions of such law. If 15 per cent of the qualified voters of such district petition the board of education to vote upon the question of consolidating with the schools under the control of the town board, it is the duty of the board of education to submit such question to either an annual or a special meeting of the district. If a resolution in favor of such consolidation is adopted at that meeting and if the board of education (known as the town board), having control of the remaining schools in the town, receive a petition from the voters residing within the town unit to submit to the voters of that unit the question of accepting the union free-school district, it is the duty of such board of education to submit the question at either an annual or a special meeting to permit the voters to determine whether or not such union free-school district shall become a part of the town unit. If a resolution is adopted favoring such consolidation the schools of such union free-school district and of the town unit shall merge into one unit and come under the control of the town board of education.

3. After favorable action is taken by such district on this proposition, the board of education of the town shall, upon a petition signed by fifteen per cent of the qualified school electors of such town, not including the electors of such union free-school district, submit the question to the voters of such town at either an annual or special school meeting to determine whether or not such town and the union free-school district shall combine and have but one board of education. A majority vote of those present and voting is required of the district which desires to come under the township system and a similar vote is also required of that portion of the town which forms the township unit within the town. The initiative must be taken by the district which is not included within

the provisions of the township law and, unless affirmative action is taken by that district at the meeting, no further action may be taken. If affirmative action is taken the question must then be submitted to the voters of the remaining portion of the town and receive affirmative action by such voters. In other words, the district which is not under the provisions of this law and that portion of the town which is under the law must each vote in favor of the consolidation, if such consolidation is to be made.

School District Officers Abolished.—1. The officers of all the trustees of each school district, the members of the board of education of each free-school district, and all other school officers of school districts which come within the provisions of the township law, including district clerks, collectors, treasurers, etc., are abolished and their terms of office terminated on the thirty-first day of July, 1917.

2. It is necessary, of course, to close up all business affairs of these school districts, and as it might not be possible for school officers to adjust all these matters, collect all outstanding bills, discharge all obligations, etc., prior to July 31, 1917, it was provided in the law that all of these officers should be continued for the purpose of closing up all business and financial affairs of school districts, of satisfying their obligations, except bonded indebtedness, adjusting their claims, collecting funds due them, and paying their just debts. These officers, however, can enter into no new obligations which bind their districts in any way whatever, and any new obligation incurred by such officers is a personal obligation and liability and not a district liability.

Disposition of Surplus Funds in District Treasury.—Any funds, except public moneys received from the State, remaining in the treasury of a school district after all its outstanding obligations and claims have been satisfied, except bonded indebtedness, is the property of the district. It is the duty of the trustee of the district to apportion such money among the taxpayers of such district. Such apportionment shall be based upon the relation of the assessed valuation of the property of such taxpayers to the aggregate assessed valuation of the district.

Disposition of State Funds.—If there are State funds remaining in the treasury of the district which could not be legally used by the district officers in adjusting their outstanding claims, such

funds must be paid by the custodian thereof to the town school treasury.

Schools Free to Children of the Town.—The schools maintained under the township law are supported by the taxable property of the entire town. The word town as used in this respect, as elsewhere in reference to the township law, means, of course, a town school unit. Since these schools are maintained by all the taxable property of the town such schools must be free to all the children of the town. The law specifically provides that each department of each school maintained in a town, and each course of study maintained therein, shall be free to the children of school age residing in such town. This must not be understood to mean that a child has the right to attend such school in town as that child or his parents may desire him to attend. School district organizations are maintained and it is presupposed that a school will be maintained in each district. It is the duty of the town boards of education to maintain schools of as nearly equal standing in the several grades and departments of the several districts as may be possible. If the town board maintains a commercial course in one of the schools of the town that course must be open to any pupil residing in the town who possesses the qualifications prescribed for admission to such course. If the town board of education maintains an academic course in one of the schools such academic course must be open to every child in the town who meets the qualifications prescribed for admission to such course, etc.

REVIEW QUESTIONS

Name two classes of school districts which do not come within the township law. A county. When must these requirements have been satisfied? What is the effect of meeting them later? On what basis is a town divided in school units? Who divides a town into such units? Why? How are orders made and where filed? Explain the meaning of the word "town" as used in this law. Explain fully how two or more town school units may be consolidated. Explain the process by which a union free-school district not under the township law may come under it. What school district offices were abolished on July 1st? For what purposes were these offices continued? What disposition was made of State funds in the treasury of the district? Of other funds? What schools or courses are free in a town? Why?

CHAPTER XI

TOWN BOARDS OF EDUCATION; CLERK; TREASURER

[Article XI-A]

Number of Members.— A board of education is established for each town. Where the number of school districts in a town is five or less the board of education must contain three members. When the number of school districts in a town exceeds five, the board of education in such town must contain five members.

Term of Office.— In towns where there are three members on the board one is to hold office until August 1, 1918, one until August 1, 1919, and one until August 1, 1920. In towns in which there are five members on the board two are to hold office until August 1, 1918, two until August 1, 1919, and one until August 1, 1920.

The term of each officer elected should be designated at the time of election. Not more than three members of a board of education shall reside in one school district. The law contemplates that the larger and more populous school districts will be given adequate representation on the board.

Qualifications of Members.— Any person residing in the town, who is qualified to vote at a town school meeting, is eligible to the office of member of a board of education, except the supervisor of the town and the district superintendent of schools. Not more than one member of a family shall be a member of the same board of education. Members of one family residing in the same household are regarded as members of the same family. In the case of a father and son who live together as one family in the same dwelling, only one of such persons would be entitled to serve on the same town board of education. The question is frequently raised as to whether or not a teacher in a town may be a member of a town board of education. Section 285 of the Education Law prohibits a trustee from being personally interested either directly or indirectly in any contract which he makes in behalf of the district. The town-

ship law subjects members of town boards of education to all duties, obligations and responsibilities which the provisions of the Education Law impose on trustees of school districts. Teachers are not, therefore, eligible to membership on a town board of education. If no provision were contained in the Education Law in relation to the matter, the two positions—as teacher in a school and as a member of the controlling board of such school—would be incompatible. If a person who is a member of a board of education is removed by order of the Commissioner of Education, that person is not eligible to membership on the board of education or to any other school office in the town for a period of five years from the date of such removal. No other person is prohibited from serving as a member of a town board of education.

Board a Body Corporate.—The law specifically provides that the board of education of each town shall be a corporation. All property which is now vested in, or shall hereafter be transferred to, the board of education of a town for the use of the schools therein shall be held by such board as a corporation.

Vacancies on Board.—1. A member of a board of education vacates his office by death, resignation, refusal to serve, incapacity, removal from the town, or from office.

2. A member of a board of education who publicly declares that he will not accept or serve in the office of such member, or refuses or neglects to attend three successive meetings of the board of which he is duly notified, without giving a valid reason therefor to such board, vacates his office by refusal to serve.

3. A member of a board of education who should accept either the office of district superintendent of schools or of supervisor of a town would also vacate his office.

Filling Vacancy in Board.—A board of education is authorized to fill any vacancy existing on a town board. The person appointed to such vacancy holds office until the next annual school meeting of a town. At such meeting the vacancy should be filled by election for the balance of the unexpired term.

If a vacancy exists in the office of a member of a town board for thirty days the district superintendent may then fill such vacancy by appointment thereto of a qualified person, who shall hold office until the next annual school meeting of the town. Such vacancy should then be filled by election for the balance of the unexpired term.

Annual Meeting of Board.—The annual meeting of a town board of education must be held on the first Tuesday in August.

Regular Meetings of Board.—The board of education must hold a regular meeting at least once in each quarter. The board may prescribe the time and place where regular meetings may be held and it may also determine the method of calling special meetings. The meetings of the board must be open to the public, but such board may hold executive sessions at which business may be transacted which should not, in its judgment, be transacted in an open session.

Chairman of Board.—A town board of education is authorized to elect one of its members chairman, who serves until the next annual meeting of the board. A town board may also appoint a clerk and a school treasurer. These officers may serve during the pleasure of the board. To be eligible to the office of clerk or treasurer a person must be qualified to vote at town school meetings in the town. The law prohibits a member of a board of education or a teacher employed in a school in the town from holding either of these offices. The board of education is authorized to fix the salary of the clerk and also of the treasurer. The board is also given the power to determine the duties which these officers shall perform in addition to those which the law itself imposes upon them.

Powers and Duties of a Board of Education.—The law specifically imposes the following powers and duties upon each town board of education:

1. Exercise the powers and perform the duties conferred or imposed by law upon boards of education or trustees of school districts, so far as they may be applicable to the schools or other educational affairs of the town and not inconsistent with the provisions of this article. Any power, duty, liability or obligation which is conferred or imposed by this chapter, or any other statute, upon the board of education of a union free-school district or the trustees of a school district, shall be exercised or performed by the board of education of a town, and such board shall be subject to such liability or obligation, in respect to the schools in the town, in the same manner and to the same extent as in the case of boards of education in union free-school districts or trustees of school districts.

2. Determine the number of teachers to be employed in the several schools of the town and to contract with principals and teachers

for the maintenance and operation of such schools pursuant to the provisions of this chapter; employ or appoint medical inspectors, nurses, attendance officers, janitors and other employees required for the proper and efficient management of the schools and other educational affairs under their direction and control.

3. Provide transportation when necessary for children attending school, under regulations to be prescribed by it.

4. Have the care, custody, control and safekeeping of all school property or other property of the town used for educational, social or recreational work and not specifically placed by law under the control of some other body or officer, and prescribe rules and regulations for the preservation of such property.

5. Purchase and furnish such apparatus, maps, globes, books, reproductions of standard works of art, furniture and other equipment and supplies as may be necessary for the proper and efficient management of the schools.

6. Establish and maintain elementary schools, high schools, vocational, industrial, agricultural and home-making schools or classes, night schools, or such other schools and classes as shall be deemed necessary to meet the needs and demands of the town.

7. Establish and maintain school libraries which may be open to the public as provided by law.

8. Prescribe courses of study which shall be followed in the schools or classes established and maintained in the town.

9. Contract with boards of education of other towns, and of union free school districts and cities for the instruction of pupils of the town, and when any such contract is made the public money or State tuition apportioned for such instruction shall be paid to such town.

10. The general intent of the law is to confer upon a town board broad general powers, sufficient to perform any duty in connection with the administration of public education in the town which may be necessary to meet the educational needs and desires of the people of the town.

Board May Borrow Money.— After a town board of education has levied and assessed the amount called for in a tax budget upon the property of the town and has issued its warrant for the collection of the same, such board may borrow on the credit of the district in anticipation of the funds to be raised under such tax levy. Undoubtedly a board could legally borrow money after its tax

budget has been prepared and previous to the actual levying of taxes and issuance of warrant. The law provides that certificates of indebtedness may be issued by a town board of education in such cases. This certificate must be signed by the president of the board and countersigned by the treasurer. The certificate may not be issued for more than one year from its date and shall bear interest at a rate not to exceed six per cent. The money thus borrowed must be placed in the treasury of the town and shall be paid out by the treasurer on the order of the board of education in the same manner as money collected by taxes levied against the property of the town.

Election of First Board of Education.—The township bill as originally prepared and introduced into the Legislature provided that the first board of education should be elected by the voters of the town in the same manner that members of a board are required to be elected under the law in succeeding years. The State Grange recommended at its annual meeting in 1917 that trustees should be continued in the several school districts of the town for the purpose of choosing a town board, and that these trustees should meet annually and elect such members of the town board as it was necessary to elect each year. Opposition to this plan developed in the Legislature and a compromise was reached by which it was provided that the trustees of the several districts of a town should select the first town board of education. This statement is made for the purpose of preserving the facts in relation to this feature of the bill and as a matter of history in the enactment of the measure.

Under this provision of the law the trustees and members of boards of education of the several districts in a town were required to meet on the second Tuesday in June, 1917, in one of the school-houses of the town designated by the district superintendent of schools for the purpose of electing a town board of education. These trustees were required to organize by electing a chairman and clerk. The law specified that thereupon they should proceed to elect the members of the town board of education. There is nothing in the statute specifically prescribing the method by which the members of a board of education should be elected. The qualifications prescribed in the statute for eligibility to member of a town board of education were specified as the qualifications for eligibility to the first board chosen under the provisions of the law. The chairman and clerk of the meeting were required to canvass the votes cast for candidates for the offices to be filled, and the one receiving the

majority of the votes cast was elected. The law required the chairman and clerk of this meeting to notify the district superintendent in writing of the persons declared elected as members of the town board of education. The district superintendent was required to notify each of the persons thus elected. The district superintendent was also required to call a meeting of the town board thus chosen in each of the towns of his supervisory district on the first day of August, 1917, at the principal schoolhouse of the town for the purpose of organization and the transaction of any other business which might properly come before the board.

Duties of Clerk.—The law specifically confers upon the clerk of a town board the following duties:

1. Act as clerk at all meetings of the board and record the proceedings of such meetings, and the orders and resolutions adopted thereat, in proper books.

2. Draw and sign warrants upon the treasurer for all moneys to be disbursed by the town for school purposes and present them to the chairman to be countersigned by that officer. Each warrant shall specify the object for which it is drawn, the fund from which it is payable and the name of the individual or corporation to whom the amount thereof is payable.

3. When directed by the board of education, prepare all reports required by law and forward the same to the proper offices.

4. Perform such other duties as are or shall be required by law or by the board of education.

5. In addition thereto the clerk must perform any other duty which the board of education imposes upon him.

Duties of Treasurer.—The law specifically confers the following duties upon the treasurer:

1. Be the custodian of all school moneys of the town and be responsible for the safekeeping and accurate account thereof.

2. Pay all orders or warrants lawfully drawn upon him out of the moneys in his hands belonging to the funds upon which such orders or warrants are drawn.

3. Keep accurate accounts of all moneys received and disbursed by him, the sources from which they are received and the persons to whom, and the objects for which, they are disbursed.

4. Prepare and submit as required by law annual reports of receipts and disbursements, and render at such times as may be

required by law or directed by the board of education, a report or statement relative to the school funds of the town.

5. The treasurer is required to perform such other duties as the board of education imposes upon him.

Treasurer's Bond.— Within ten days after receiving notice of his appointment, the treasurer should execute and deliver to the board of education a bond, in such sum as the board prescribes and with sureties approved by such board, conditioned for the faithful discharge of the duties of his office. Failure on the part of the treasurer to execute such bond vacates his office.

REVIEW QUESTIONS

How many members on a townboard? What is the term of office? What is the intention of the law as to representation on such boards? Who are eligible to membership? Who are not eligible? May a teacher serve on such board? Why? Is a town board of education a corporation? In whom is the school property of the town vested? How may a member of the town board of education vacate his office? How may a vacancy on a town board be filled? When may a district superintendent appoint? When is the annual meeting held? How often must regular meetings be held? How may special meetings be held? Must the meetings of the board be open or closed sessions? Who is the presiding officer of the town board? By whom chosen? What officers does a town board select? What are their qualifications? How is the salary of each fixed? How are the duties determined? Mention nine general powers and duties of a board. What is the general intention of the law? When may a board borrow money? What security may be given? For what period of time? At what per cent? How was the first board of education elected? State why this plan is adopted? State four general duties of the clerk? What other duties must he perform? State four general duties of a treasurer? What other duties must he perform? What bond is a treasurer required to give? What is the effect if he does not give such bond?

CHAPTER XII

TOWN SCHOOL MEETING

[Article XI-A]

Annual Meeting.—The annual town school meeting of each town, or each school unit in a town, shall be held on the first Tuesday in May.

Purpose of Meeting.—The purpose of this meeting is to elect members of the boards of education and to transact such other business as the law authorizes to be determined before annual town school meetings.

Place of Meeting.—The board of education must designate a schoolhouse in the town at which the annual meeting shall be held. In designating such place of meeting the board should select a schoolhouse in the town which is the most conveniently accessible to a majority of the qualified voters in the town.

School Election Districts.—If the territory embraced within a town is so large that it is not feasible to bring all the voters together at one central point, the town board of education may divide such town into school election districts. It is within the power of the board of education to determine how many of these school election districts shall be organized. If the board of education divides a town into school election districts the board must also designate the particular schoolhouse in each of such districts in which the annual meeting of the district shall be held.

Polls.—The polls of the election of members of boards of education at a town meeting must be open from 9 o'clock in the morning until 4 o'clock in the afternoon.

Notice of Meeting.—It is the duty of the clerk of the board of education to give notice of the time and place of the annual school meeting. This notice should be published once each week for the four weeks preceding the date of such meeting in two newspapers, if there should be two, or in one newspaper, if there shall be but one published or circulated in such town. If no newspaper shall

be published or circulated in the town such notice must be posted on the door of each schoolhouse in the town and in at least ten other public places of the town. This notice must be posted at least 20 days before the date of such meeting.

Special Town School Meeting.— 1. The board of education has authority to call a special meeting of the qualified voters of a town to consider such matters pertaining to the administration of the schools as the board deems necessary and expedient for the people of the town to consider at a special meeting.

2. Notice of such meeting must be given by the clerk of the board of education in the same manner as the law requires notice of an annual meeting to be given.

Place of Meeting.— All special meetings must be held at the schoolhouses at which the annual school meeting of the town is required to be held.

Qualifications of Voters.— To be eligible to vote at a town school meeting a person must possess the qualifications prescribed in chapter VIII.

Poll List.— 1. On or before the first day of April, annually, the clerk of the board of education is required to prepare a list of all persons qualified to vote at school meetings held in the town. The names on the poll list must be arranged alphabetically, according to their surnames, and the residence of each voter must be entered opposite his name.

2. If a town has been divided into school election districts the clerk should prepare a separate poll list containing the names of the qualified voters residing in each district.

Filing Poll List.— After the poll list is prepared it must be placed on file in the office of the clerk of the board of education. The board of education may designate some more convenient place for the filing of such list. This list may be examined by any legal voter of the school election district from 4 to 8 o'clock on the evening of each Friday and Saturday of the four weeks immediately preceding the annual school meeting. It is the duty of the clerk of the board of education, or some other person designated by such board, to be present at these hours, at the place where such list is filed, to permit the public inspection of such list which the law requires.

Correction of List.— If the name of a person who is qualified to vote at an annual meeting is not upon such list such person may

submit to the clerk of the board evidence to show that he is qualified to vote at such meeting, and the clerk shall then correct such list by placing his name thereon. If the name or the residence of a qualified elector is incorrectly stated upon the poll list the clerk, upon satisfactory evidence furnished him, may correct such error.

Review of Poll List by Board.—The board of education of a town shall meet on the Monday preceding the annual school meeting and may, upon satisfactory evidence being presented to it, correct errors in the list of qualified voters and place the names of qualified voters who have been omitted upon such list.

Written Challenges.—A person qualified to vote at an annual school meeting of a town may file with the clerk of the board of education a written challenge of the qualifications, as an elector, of any person whose name appears upon the list. When the board of education reviews such list for correction it must indicate upon this list the persons whose qualifications as voters have thus been challenged.

Corrected List Filed With Inspectors.—The clerk of the board of education shall deliver to the inspectors appointed to conduct town school meetings a copy of the revised and corrected poll list. If a town is divided into school election districts, a copy of such revised and corrected list for each district must be filed with the inspectors thereof.

Nomination of Officers.—Candidates for members of a town board of education must be nominated by petition. This petition must be directed to the clerk of the board of education of the town. It must be signed by at least 25 qualified voters of the town. It must contain the names and residences of the candidates and must show whether such candidates are nominated for full terms, or unexpired terms. This petition must be filed with the clerk of the board of education on or before the fifteenth day preceding the day of the annual school meeting. Any 25 qualified electors of a town may, therefore, nominate a candidate for the office of member of the board of education.

Official Ballots.—1. The board of education of a town is required to provide printed official ballots, which shall contain the names of all candidates who have been nominated. These ballots must show whether the persons named thereon are candidates for full terms or for part terms. The names of candidates must be arranged alphabetically according to their surnames, and in columns which shall

show whether such candidates are to be elected for full terms or for portions of terms. Blank spaces shall also be provided in such ballots so that persons may vote for candidates who have not been regularly nominated by petition. Instructions as to the marking of the ballots and the number of candidates for the various offices for which an elector is permitted to vote must be printed on the ballot.

2. When the voters of a town school meeting are required to vote upon some special proposition brought before them for determination, the ballots used therefor shall conform as nearly as may be to the ballots required to be used for similar purposes at a general election, under the election law.

3. The number of ballots provided for meetings shall equal the number of qualified voters of the town, as shown by the poll list prepared therefor. It is the duty of the clerk of the board to deliver, on the day of the meeting, a sufficient supply of such ballots for the use of the voters of the town, to the inspectors of each of the school election districts. The expense of such ballots must be met by the town board of education.

4. An election of a member of a town board of education shall not be declared invalid or illegal because of the use of ballots which do not conform to the requirements of the statutes, or to the provisions of the education law, provided the intent of the elector may be ascertained from the use of the irregular ballots voted and it appears that such use was not fraudulent.

Inspectors of Election.—The board of education must appoint three inspectors of election for each of the school election districts into which the town has been divided. It is the duty of the clerk of the board to give notice of appointment to the persons who have been thus appointed. If a person refuses to accept such appointment, the board of education may appoint some other qualified voter of the school election district to fill the vacancy. Before opening the election the inspectors should organize by electing one of their number as chairman and one as poll clerk. Each inspector is entitled to receive a compensation of \$3 per day, to be paid for out of the funds provided for the general management of the schools of the town.

Conduct of School Elections — Laws Controlling.—Except as otherwise provided in the Education Law, the town school elections shall be conducted so far as may be in accordance with the provisions of the General Election Law.

Ballot Boxes.—It is the duty of the board of education to provide ballot boxes for each of the school election districts in the town. These boxes should conform as nearly as may be to the ballot boxes used at general elections.

Who May Vote.—1. All persons whose names appear upon the list of qualified electors as residing in the school election district shall be given ballots and shall be permitted to vote.

2. A person whose name does not appear upon the list of qualified voters who presents evidence satisfactory to the inspectors showing that he is a qualified elector of the school election district shall be permitted to vote if such person makes the declaration prescribed for persons who have been challenged.

3. All electors entitled to vote who are in the place at which the election is being held at the time scheduled for closing the polls shall be permitted to vote before such polls are closed. When a voter presents his ballot to the inspector such ballot must be folded so as to conceal the names of the candidates for whom he has voted or the way he has voted upon a proposition or question before the meeting for determination.

Poll List.—The inspector designated as poll clerk shall keep a poll list controlling the names of all persons who vote at the election for either candidates or propositions or questions voted on at the meeting.

Challenges.—A person named upon the list of electors as having been challenged prior to the day of the school election must also be challenged at such election before a ballot is given to him.

Any qualified elector may challenge the right of a person to vote at the time such person requests a ballot. A person who is challenged or who requests the privilege of voting, and whose name is not upon the list of qualified voters, must make the following declaration, prescribed to him by the chairman of the board of inspectors: "I declare and affirm that I have been for the thirty days last past an actual resident of this town and that I am qualified to vote at this meeting."

A person who makes this declaration must be permitted to vote. A person who shall refuse to make such declaration shall not be permitted to vote at such meeting.

Penalty for False Declaration and Illegal Voting.—1. A person who wilfully makes a false declaration as to his right to vote at such school meeting is guilty of a misdemeanor.

2. A person who is not legally qualified to vote at such school meeting, but who shall vote at it, shall be subject to a penalty of fifty dollars, which may be recovered by suit brought by the board of education. A fine thus obtained is for the benefit of the schools of the town.

Canvass of Votes.—As soon as the polls of the election close the inspectors shall compare the number of ballots found in the ballot box with the number of persons recorded on the poll list as having voted for candidates or for propositions or questions before the meeting. If the number of ballots in the box exceeds the number of names recorded on the poll list, all ballots must be replaced in the boxes from which they were taken without being unfolded. These ballots should then be thoroughly mingled in such boxes. One of the inspectors designated by the board for that purpose shall then publicly draw out as many ballots as shall be equal to the number of excess ballots. The ballots so drawn out shall be placed in an envelope, without being unfolded, and such envelope shall then be sealed and endorsed with a statement of the number of such ballots withdrawn and shall be signed by the inspector who withdrew such ballots. This envelope must be delivered to the clerk of the board of education and be preserved by him for a period of at least one year. The board of inspectors shall then count such ballots, keeping tally of the same and preparing a statement showing the number of votes cast for the several candidates voted for at the election. The same procedure shall also be taken in reference to any question or proposition voted upon at such meeting. The statement prepared by the inspectors must also show the number of ballots which were declared void or defective and the number of blank ballots cast at the election. This statement of the votes cast shall be signed by the inspectors in each election district and delivered to the clerk of the board of education on the day following such election.

Void Ballots.—Ballots which are declared void and not counted shall be placed in an envelope which shall be sealed, properly endorsed, and signed by the inspectors. This envelope shall be filed with the clerk of the board of education and preserved by him for a period of at least one year.

Preservation of Ballots.—After the inspectors have properly counted the ballots and prepared their statement, such ballots must be replaced in the ballot boxes. Each box must be securely locked,

sealed, and deposited with the clerk of the board of education. The unused ballots shall be placed in a sealed package and returned to the clerk of the board of education at the same time when the ballot boxes are delivered to him.

Canvass by Board of Education.—The town board of education shall meet at its usual place of meeting at eight o'clock P. M. on the day following such election and shall then examine and tabulate the statement of the results of the election in the several districts of the town. The board shall determine the number of votes cast for and against each candidate and for and against each proposition or question voted upon at such meeting. The board shall then declare the result of the canvass of the votes in each election district and the candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. The clerk of the board of education shall record the result of the election as announced by the board of education in the minutes of its meeting.

Notice to Successful Candidates.—Within twenty-four hours after the result of an election has been declared by the board of education, the clerk of such board shall serve a written notice upon each person declared to be elected as a member of the board of education. This notice may be delivered either personally or by mail. A person upon whom such notice is served shall be deemed to have accepted the office unless he files a written refusal to accept the same with the clerk of the board within a period of five days after the service of such notice.

Election Disputes—How Determined.—The Commissioner of Education is authorized to determine all questions in disputes in relation to an election of a member of a board of education or the determination of any other question by such meeting on an appeal properly brought before him for that purpose. The Commissioner of Education also possesses the authority to order a new school election if in his discretion he deems it desirable or necessary.

REVIEW QUESTIONS

When is the annual town school meeting held? For what purpose? Where? When may a town be divided into school election districts? By whom? During what hours must the poll of an election be open? What notice of an annual meeting is given? By whom? In what manner? When may special meetings be held? What notice is required? Where? What poll list must be prepared? By whom? Where must it be filed? Who may examine it? When? How is the opportunity afforded? By whom is a poll list

revised and corrected? When? How may it be corrected? By whom is it finally revised? How are written challenges offered? With whom is the corrected poll list filed? When? How are candidates nominated? With whom is the petition filed? How many petitioners are required? Who must provide ballots? Describe how ballots must be printed? How may special propositions be voted upon? How many ballots must be provided? To whom are they delivered? When? What is the effect if official ballots are not used? How are inspectors of election chosen? How many? How do they organize? How are elections generally controlled? By whom are ballot boxes provided? Who may vote at an election? How may a person vote whose name is not on the poll list? Who may vote after the hour for closing the poll has arrived? What poll list is kept? Who may challenge the right of a person to vote? When? Is a written challenge sufficient? Who is required to make a declaration before voting? What is the penalty for a false declaration and illegal voting? What is the penalty for illegal voting without making false declaration? Explain the general method of canvassing votes. What is done with void ballots? What other ballots must be preserved? How? What return is made to the board of education? What canvass does the board of education make? When? In what manner? How is the result recorded? What notice is given to successful candidates? By whom? How are election disputes determined?

CHAPTER XIII

UNION FREE-SCHOOL DISTRICT OFFICERS

[Articles 9, 10 and 11]

Application of Township Law.— The township law, chapter 328 of the Laws of 1917, does not apply to union free-school districts having a population of 1,500 or more, or employing 15 teachers or more. These union free-school districts continue under the control of the provisions of the education law which apply to union free-school districts. The officers of such districts and their powers and duties are the same as they have been and are not modified in any way by the township law of 1917.

Board of Education — Number.— The number of members on a board of education in each union free-school district cannot be less than three, nor more than nine. The voters of the district at the meeting at which the first election occurs should decide on the number to be elected.

Date of Election.— The election of members of a board of education in a union free-school district which is not subject to the provisions of the township law and whose limits do not correspond with the limits of an incorporated village must be held on one of three dates, as follows:

1. At the annual meeting on the first Tuesday in May.
2. At the annual meeting on the first Tuesday in August in cases where the date of such annual meeting has been duly changed as hereinbefore explained.
3. On the Wednesday following the date of the annual meeting in districts having more than 300 school children where action has been taken at the annual meeting fixing such date for the election as hereinafter explained.

The election of trustees in a union free-school district *whose boundaries do coincide with those of an incorporated village or a city*, must occur on the date of the annual charter election of such incorporated village or city. The trustees in these districts should be elected in the same manner as the other officers of such incorpo-

rated village or city are elected. The ballots used in such election must be separated from the ballots for the other officers to be chosen at such election and must be endorsed "School Trustees."

Method of Election.— These officers must be chosen by ballot. The ballots may be printed or written or partly printed and partly written. Ballot-boxes should be provided for the purpose. Inspectors should be chosen by the meeting, who should receive all the ballots, deposit them in the ballot-boxes, and, after the polls have closed, canvass the votes and announce the result. The candidate receiving a majority of all votes cast is duly elected.

Classification of Trustees.— When a union free-school district is organized, the officers chosen at the first election shall be divided into three classes to be known as the first, the second, and the third class. The first class shall hold office for one year from the next annual meeting, if the district is one whose boundaries do not coincide with those of an incorporated village or a city; and if the district is one whose boundaries do so coincide, then such first class shall hold office for one year from the date on which the next annual charter election of such incorporated village or city occurs. The second and the third class shall likewise hold office for two and three years respectively from these dates, according to the boundaries of the district.

Term of Office.— After the expiration of the term of office of trustees elected at the first meeting of a union free-school district newly organized, the term of office of trustees of such district is three years from the date of their election. *A year* in this sense means from the first day of August to the thirty-first day of July following.

Trustees Form a Board of Education.— The trustees of union free-school districts constitute the boards of education for those districts. The board of education of a district is known and designated as the "Board of Education of district number of the town of"

Eligibility of Trustees.— In order to be eligible to hold the office of trustee, or to become a member of a board of education in a union free-school district, a person must be a citizen of the United States, and a voter of the district in which such person is elected, and must also be able to read and write. Women possessing these qualifications are eligible the same as men. Not more than

one member of a family can serve on a board of education in any district at the same time.

A district superintendent or supervisor is not eligible to be a member of a board of education. Hence, if a member of a board of education should accept either of these offices he would thus vacate his office as such member.

Vacancies — How Filled, etc.— Vacancies in boards of education in any union free-school district may occur by death, by resignation, by refusal to serve, by removal from district, or by removal from office. When a vacancy does occur from any of these causes, the board of education should fill such vacancy at once by appointment. If the board of education should fail to fill such vacancy within thirty days from the date on which it occurred and if such vacancy is not filled by special election of the district within that time, the district superintendent having jurisdiction may appoint a qualified person to fill such vacancy. The Commissioner of Education has the authority to order a special election to fill a vacancy in a board in any district, and when such special election has been ordered, the vacancy shall not be supplied in any other manner.

Removal from Office.— A board of education has the authority to remove any member of the board for official misconduct. The member charged with such conduct should be furnished with a written copy of specific charges, at least ten days before the date fixed for the hearing. The accused member should also be allowed a fair and impartial opportunity to refute the charges preferred against him.

A member of a board of education may also be removed by the Commissioner of Education for sufficient cause.

In this procedure also, the accused member must receive notice of the charges standing against him and must have a fair chance to refute or disprove them. A willful failure to perform any duty required of him by the Commissioner of Education or a lack of proper diligence in obeying an order of such Commissioner, or any other willful violation or neglect of duty is sufficient cause for removal from office by such Commissioner.

Boards Bodies Corporate.— All boards of education are corporate bodies, and all school districts municipal corporations.

Annual Meetings of Boards of Education.— The annual meeting of a board of education of a union free-school district whose

boundaries *do not* correspond to those of an incorporated village, is held on the first Tuesday in August of each year, except in districts in which the annual meeting is held on the first Tuesday in August, in which case the annual meeting of the board of education of such district shall be held on the second Tuesday in August.

But the annual meeting of a board of education of a district whose boundaries *correspond* to those of an incorporated village is held on the first Tuesday following the date on which the annual charter election of such village is held.

Boards Select Their President.—At the first meeting of a board of education and at each annual meeting thereafter, such board shall elect one of their number president.

Appointment of Clerk of the Board.—The board of education of a district whose boundaries do not coincide with those of an incorporated village may appoint one of their number, or some other qualified voter of the district, who is not a teacher employed therein, clerk of the board of education. The clerk must perform the clerical work of the district and of the board, and is entitled to the compensation fixed by the district meeting. If the district meeting fails to fix the compensation of the clerk, the board of education should fix it.

If a vacancy occurs in the office of clerk, such vacancy may be supplied by appointment by the board of education.

In a union free-school district whose boundaries coincide with those of an incorporated village, the clerk of such village usually acts as clerk of the board of education.

Appointment of Treasurer and Collector.—The board of education of a union free-school district whose boundaries do not correspond to those of an incorporated village, has authority to appoint a district treasurer and a collector. These officers hold their appointments subject to the pleasure of the board. The treasurer is to hold and disburse upon the orders of the board the moneys of the district. The collector should collect the taxes on all tax-lists placed in his hands for that purpose and pay over such money to the treasurer.

In a district whose boundaries do coincide with those of an incorporated village, the treasurer and the collector of such village act as the treasurer and the collector of such district.

Bonds of Treasurer and Collector.—The treasurer and the collector shall each within ten days after written notice of their

appointment, and before entering upon the discharge of their duties, execute and deliver to the board of education in the amount which such board may require, a bond with proper penalties and sureties for the faithful discharge of their duties.

Failure to Execute Bonds.—If either the treasurer or the collector should fail to execute the required bond within the specified time, the office becomes vacant and the board should fill it by appointing another person.

Librarian.—Boards of education have authority to appoint from time to time such librarians as in their judgment are necessary to take proper care of the libraries of the district.

Who May Vote for Officers in Union Free-School Districts.—Where no provision is made by special enactment, the general law defines the qualifications of voters at union free-school district meetings. (See chapter on “Qualifications of voters.”) Persons coming within these provisions may vote for officers at elections in these districts.

The right of *women* to vote for the election of officers in a union free-school district whose boundaries coincide with those of an incorporated village, is frequently claimed. The charters of villages, or the special school acts governing the schools therein, in some cases contain a provision defining who may vote for members of the board of education. In such cases this special provision governs instead of the general law, and by it women might be debarred from voting. A provision that persons entitled to vote for members of assembly in such villages would be qualified to vote for school officers, would exclude women; but in the absence of any such special provision women, as well as men, may vote for school officers, if they possess the requisite qualifications.

Changing Number of Trustees.—1. If fifteen resident taxpayers of a union free-school district whose limits correspond to those of an incorporated village petition their board of education for a special meeting to decide to change the number of members of such board such special meeting must be called at least 30 days prior to the annual charter election. If the proposition to increase the number of members is adopted, such additional members shall be elected at the next annual election. If the proposition to decrease the number should be adopted no member shall thereafter be elected until the number of members is less than the number determined upon at such special meeting.

2. In a union free-school district whose boundaries are not coincident with those of an incorporated village the board of education must include in its notice of the annual meeting a statement that the proposition to increase or to decrease the number of trustees will be voted upon at such annual meeting if fifteen voters of the district file a request therefor with such board. If the board fails or refuses to give such notice, it may be given in the manner directed by the Commissioner of Education. The question cannot be legally voted upon unless the notice is given.

If it is decided at the annual meeting to increase the number of trustees, the meeting should elect the additional number agreed upon and divide such number into classes whose terms expire in one, two and three years respectively.

If it is decided to decrease the number of such trustees no trustee shall be elected until the number is reduced to that determined upon at the annual meeting.

ELECTION OF OFFICERS IN UNION FREE-SCHOOL DISTRICTS HAVING MORE THAN 300 CHILDREN

Action of District.—The education law provides that in a union free-school district having *more* than 300 children of school age, which fact must be shown by the last annual report of the board of education to the district superintendent, a majority of the qualified voters at any annual meeting or at a special meeting called for that purpose, may decide by vote to be ascertained by taking and recording the ayes and noes, that the *election of trustees* shall be held on the Wednesday next following the date fixed by law for holding the annual meeting of such district. Until such decision of the district shall be changed, the time for holding the election of officers of such district shall occur on such Wednesday, between the hours of twelve o'clock noon and four o'clock P. M., and the trustees may by a resolution extend the time of such election until sunset.

This provision of law is superseded by the provisions of the township law of 1917 and in addition to having 300 children of school age such district must also have a population of 1,500 or employ 15 teachers or more so as to be exempt from the provisions of the township law. No union free-school district subject to the provisions of the township law may hold district meetings.

When Notice is Required.—When the holding of such election is to be at some place other than the public schoolhouse, the trustees shall give notice of the place at which the election is to be held, at least one week before the time for holding such election. This notice must be given by publishing the same in some newspaper of the district or by posting it in three conspicuous places in the district.

The election of members of the board of education in these districts must not be counfounded with the annual meeting. The annual meeting of such districts must occur on the first Tuesday in May in each year, as required by law, unless the date for the annual meeting has been duly changed to the first Tuesday in August as hereinbefore explained. All the business of the district to be transacted at the meeting of such district must be transacted at the annual meeting. *The election of members of the board of education only, must occur on the Wednesday following the annual meeting and no other business can be transacted at that time.*

Inspectors of Election.—The board of education shall act as inspectors of election. If a majority of the members of the board should not be present at the time the polls should open, those members present may appoint any of the legal voters of the district who are present to act as inspectors in the absence of the members of the board. If none of the members of the board are present at the time the polls should open, the legal voters present may choose three of their own number to act as inspectors.

Record of Voters.—The clerk of the board of education is required by law to keep a record in a book provided for that purpose of the names of all voters who deposit their ballots at such elections.

Refusal to Keep Record.—Any such clerk who shall refuse to keep such record or who shall neglect to perform his duties in this respect shall forfeit a sum of twenty-five dollars, to be sued for by the supervisor of the town.

Challenge of Voters.—Any qualified voter at such elections may challenge the right of any person to vote whom he has reason to think is not entitled to vote at such election. Any person thus challenged must make the following declaration before his ballot can be accepted: "I do declare and affirm that I am and have been for thirty days last past an actual resident of this school district and that I am legally qualified to vote at this election."

Upon a challenged party's making such declaration, the inspectors of election must accept his ballot.

Penalty for Illegal Voting.—Any person, who, being challenged, shall willfully make a false declaration of his right to vote, is guilty of a misdemeanor. Any person not legally qualified who shall vote at such election or district meeting, without being challenged, shall forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district.

Ballot-Boxes.—The board of education should provide at the expense of the district suitable ballot-boxes, in which the ballots of voters shall be deposited.

Ballots.—These officers must be elected by ballot. The ballots used must be either printed or written, or partly printed and partly written.

Canvass of Votes.—The inspectors shall count the votes cast, after the polls have closed. If the number of ballots exceeds the number of names on the poll-list kept by the clerk, the inspectors shall withdraw ballots enough to make them correspond. The inspectors shall then count the votes and announce the number cast for each candidate. Those receiving a plurality of the votes cast, are elected to the various offices for which they received votes. The clerk should make a record of the result announced by the inspectors.

Special Election.—Whenever the time passes on which an election should be held, without the election's taking place, the board of education may call a special meeting for such election. If the board fails to call such election within ten days after such time has passed, the district superintendent having jurisdiction, or the Commissioner of Education, may order any inhabitant of the district to give notice of a special meeting for such election. This notice must be given by being published in two newspapers of the district once each week for four weeks, and if two newspapers are not published in the district, but one is, the notice may be published in such paper. If no paper is published in the district, then such notice must be posted in at least twenty of the most public places in the district at least twenty days prior to the date on which the meeting is to be held.

Terms of Officers Chosen at Special Election.—The officers chosen at a special election shall serve three years from the date of

such election and until their successors shall have been elected and qualified.

Settlement of Election Disputes.— All disputes relating to the regularity of these elections and to any acts of the inspectors or clerk should be referred to the Commissioner of Education for settlement. His decision in such matters is final.

Limitation of These Provisions.— These provisions do not apply to union free-school districts in cities, nor to any union free-school district whose boundaries coincide with those of an incorporated village. Nor can such provisions apply to any union free-school district organized by a special act in which the time and method of electing officers in such district shall be fixed by a special provision which differs from the general law. Nor do these provisions apply to any of the union free-school districts of the counties of Suffolk, Chenango, Warren, and St. Lawrence. The election of officers in any union free-school district of any of these counties, whose boundaries do not coincide with those of an incorporated village must be held on the date of the annual meeting.

REVIEW QUESTIONS

How many members on a board of education in a union free-school district? How is the number determined? On what three dates may the election of members on a board of education in union free-school districts whose boundaries *do not coincide* with the boundaries of an incorporated village or a city occur? When in districts whose boundaries *do* thus coincide? In the latter case how are such trustees elected? What is the requirement relative to ballots? In all cases how must trustees be chosen? What kind of ballots must be used? How are inspectors chosen at such election? What are their duties? How should the first trustee of a union free-school district be classified? For what period does each class hold office? What is the regular term of office? What is *one year* in this meaning?

What constitutes a board of education? How is a board of education named? Who are eligible to membership on a board of education? Are women eligible? When? How many members of a family may serve on the same board? Is a district superintendent eligible? A supervisor? If a member of a board of education should accept either of these offices, what would be the result? How may vacancies on a board occur? When a vacancy does occur how should it be filled? Who may order a special election to fill such vacancy? If it is not filled by the board of education within twenty days and if a special meeting is not called within that time, how may such vacancy be filled?

For what reasons may a board remove any of its members? What are the proceedings in such cases? What privileges should be allowed the

accused member? By what other authority may a member of a board be removed? What are considered sufficient causes for removal? What are the proceedings in such cases? When is the annual meeting of a board of education held? What is the exception to this date? How is the president of a board of education chosen? When?

How is a clerk chosen? What are the qualifications of a clerk? What are a clerk's duties? Who determines the compensation of a clerk? Who is clerk of the board of education of a union free-school district whose boundaries coincide with those of an incorporated village or a city?

How is a treasurer chosen in a district whose boundaries coincide with those of an incorporated village or a city? A collector? Who are eligible to these offices? For what period are they appointed? What is the duty of the treasurer? Of the collector? What bond must each of these officers give? Within what period? For what amount? What is the effect if these bonds are not given? How are such vacancies filled? What is the duty of a board in relation to librarians?

Who are entitled to vote for officers in union free-school districts? In what cases may *women* vote for these officers? In what cases are they not entitled to vote? Explain fully how the number of trustees may be changed in each class of union free-school districts.

What union free-school districts may elect officers on the Wednesday following the annual meeting? When? Between what hours must such election occur? Until what time may the election be extended? Where is such election held? When may it be held elsewhere? What notice must be given of such change of place? What business only can be transacted at such election? When must the *annual meeting* of such district be held?

Who act as inspectors at such election? If a majority of the board are not present at the opening of the polls, how are such vacancies filled? If none of the members of the board are present, how are inspectors chosen? What poll-list should be kept? By whom? What is the penalty for refusal to serve in this capacity?

Who may offer a challenge at such election? What affirmation must the challenged person make? Upon his making such affirmation what must the inspectors do? What is the penalty for making a false declaration? What is the penalty for illegal voting when not challenged? How is such fine collected? For what purpose should it be used?

By whom should ballot-boxes be supplied? How must officers be elected at these elections? What kind of ballots may be used? Describe how the votes cast should be counted?

When should a board of education call a meeting for a special election? When may a district superintendent order such election? The Commissioner of Education? What notice must be given of such election? For what period are the officers elected at such special meeting chosen? How are all disputes relating to such elections settled? To what districts do not these provisions for election of officers apply?

CHAPTER XIV

BOARD OF EDUCATION, UNION FREE-SCHOOL DISTRICT — POWERS AND DUTIES

[Article 11]

Statement.— The provisions of this chapter apply to all union free-school districts which are not subject to the provisions of the township law, chapter 328, Laws of 1917.

Adopt By-Laws for its Government.— A board of education has legal authority to adopt such by-laws and rules for its government as it shall deem necessary to discharge properly the duties imposed upon it by law.

Adopt Regulations for Schools.— A board has authority also to adopt such rules and regulations as it shall deem wise and necessary for the promotion of the educational interests of the district, for the preservation of order and discipline in the schools, and for the protection of the district's property.

While a board has authority to adopt general rules to govern a school and to aid in the discipline thereof, such authority must not be construed as giving the board absolute power to control the discipline and order of the school. General rules may be adopted by the board, but the teacher is the authority to execute such rules, and may determine a mode of punishment not in conflict with the rules of the board. A teacher has authority also to establish such rules for the preservation of order as are not in conflict with the rules adopted by the board.

Courses of Study.— It is the duty of boards of education to arrange courses of study for the schools under their jurisdiction, to determine in what manner pupils shall be graded or classified, and to determine the basis upon which pupils shall be promoted from grade to grade, or from one department to another department.

By special provision of law, boards of education are required to provide for instruction in physiology and hygiene, with special reference to the effects of alcoholic stimulants and narcotics upon the

human system, and in the humane treatment and protection of birds and animals.

Prescribe Text-Books.— They are to prescribe the text-books to be used in the schools under their charge, and to require a uniformity in the use of such books. They shall also furnish text-books to poor pupils out of any moneys provided for that purpose, and free text-books for all pupils when funds have been voted therefor.

Purchase Sites.— When directed to do so by a district meeting, boards of education should purchase a site or sites or an addition to a site or sites for schoolhouses.

Erect and Repair Buildings.— They should construct a schoolhouse or schoolhouses when directed to do so by a district meeting, and should keep the school buildings in good repair.

Purchase Furniture, Apparatus, etc.— A board of education has the authority to purchase all necessary furniture, apparatus, fuel, and other necessaries, and to keep the furniture and apparatus in good repair.

May Hire School Rooms and Furnish Them.— When the rooms in a schoolhouse are overcrowded and the capacity of a schoolhouse is insufficient to accommodate all the pupils, or when the schoolhouse has been injured or destroyed in any way so as to render it unfit for use, the board of education may hire suitable rooms in which to conduct the school, and may fit up and furnish such rooms in a suitable manner, for the purpose of conducting school therein.

Insure School Property.— The board should insure all school buildings and appendages thereof owned by the district, the furniture and apparatus, and the library, in a company created under the laws of the State or authorized to do business in the State. The board has power to raise the premiums by tax upon the district.

Custody of Property.— The custody and possession of all public school buildings, sites, lots, furniture, books, apparatus and *all* school property, and the title to the same are vested, in union free-school districts, in the board of education in each of such districts. For any and all purposes this property is exempt from taxation.

May Sell Property and Exchange Real Estate.— When a board of education is so authorized by the qualified voters of any district, it may sell at such price and upon such terms as directed, any

former lot or site and any real estate the title of which is vested in the board, and any buildings or appurtenances thereon. The board has authority also to convey any such property by deed and to execute the same, which may be done by a majority of the members of the board or by some officer or member of the board duly empowered by the board to make such conveyance. Any money realized from the sale of such property must be applied by the board as directed in a resolution by the voters of the district.

The board may also, when so directed, exchange any real estate belonging to the district for the purpose of improving or changing the schoolhouse site.

May Hold Real Estate in Trust.—A board of education may take and hold any real estate for the use of the schools or any department of the schools of their district, transmitted to the district by gift, grant, bequest or devise; or any gift, legacy, or annuity given or bequeathed to said board. Such board must apply the same, or the interest or proceeds thereof, as directed by the donor or testator.

Control of Schools.—Boards of education of union free-schools have in all respects the superintendence, management, and control of such schools subject to the supervision of the Commissioner of Education. In such control and management a board must be governed by law, and by the general powers given the Commissioner of Education.

Establishment of Academic Department.—The power to establish an academic department is vested in the board of education. This may be established whenever the board deems it necessary. Such department must be approved by the Board of Regents.

Admission of Non-Resident Pupils to Academic or Other Departments.—The admission of non-resident pupils to the academic or other departments shall be under the regulations adopted by the board of education, and the fee to be charged such students for this privilege shall also be regulated by the board. Whenever the parent or the guardian of non-resident pupils shall be taxed for school purposes, because of property owned by either of them and assessed in the district at which such non-resident pupils attend school, the amount of tax thus paid must be deducted from the tuition fee to be paid.

Colored Schools.—A board of education has authority under the law to maintain a separate school for colored children when

authorized by a vote of the district. No person may be excluded from a public school on account of race or color. The maintenance of these schools is, therefore, unnecessary. (For history of legislation on this subject, see 10th edition of this work.)

Employment of Teachers.— It is the duty of a board to employ all teachers required for the schools under their jurisdiction and the departments thereof. Such teachers must be legally qualified, as required by law. No teacher who is related by blood or marriage to any member of a board can be employed as teacher by such board, except upon the consent of two-thirds of the members of the board, and the fact of such consent must be determined at a board meeting and entered on the proceedings of the board.

It is the duty of each board at the time of employment to deliver or cause to be delivered to each teacher, a written contract, signed by the members of the board or by some person duly authorized to represent the board. This contract should express the terms of agreement between the board and the teacher, and should be explicit as to the amount of compensation, term of employment, the times when salary shall be paid, and the grade of teaching or department in which the teacher is to be employed. The salary must be paid under the law as often as at the end of each calendar month of the term of employment. Boards are also directed to pay the wages of teachers out of money appropriated for that purpose.

Removal of Teachers.— A board of education cannot remove a teacher during his or her term of employment except for neglect of duty, incapacity to teach, immoral conduct, or other cause approved by the Commissioner of Education.

May Fill Vacancies on Board — May Remove Members.— The board of education may fill any vacancy which may arise on such board. A board may also remove any of its members for official misconduct. But first, the board must serve on the member thus charged, a copy of the written charges, which must be specific; and this copy must be served on such members at least ten days before the date fixed for the hearing. The accused must also be allowed a full and fair opportunity to refute the charges thus made.

Water-closets, Stairways, etc.— It is the duty of a board of education to provide two suitable and convenient water-closets for each of the schools under their charge, as required by law, and the board must keep them in a clean and wholesome condition. Any tax involved for this purpose may be levied and assessed upon the

district without a vote at a district meeting. (See chapter on "Sites and school buildings.")

The board shall also cause to be erected and maintained on the outside of all school buildings which are more than two stories high, proper stairways with doorways leading thereto from each floor above the first, for use in case of fire. The tax for this purpose may likewise be levied by the board without a vote of the district.

General Powers and Duties.—By provision of law, boards of education possess all the powers and privileges and are subject to the same duties in relation to common schools or common-school departments in any union free school in said district which are possessed by the trustees of common schools or to which such trustees are subject under the school law and which are not inconsistent with the provisions of law governing union free schools. When an academic department has been established by a board, the board possesses the same powers that are held by the trustees of academies.

Board May Appoint Superintendent of Schools.—In any union free-school district which has a population of five thousand or more, the board of education may appoint a superintendent of schools. The population of such district shall be ascertained by an enumeration of the inhabitants therein under the direction of the Commissioner of Education; the expense of such enumeration shall be a charge upon the district. Such superintendent shall be under the direction of the board of education and the board shall prescribe his duties and fix his compensation. He may be removed from office by a majority vote of the board.

A district thus employing a superintendent is entitled to receive from the State, in its apportionment of the State school moneys, the additional sum of eight hundred dollars.

Record of Proceedings.—Boards are required to keep an accurate record of all of their proceedings in books provided for that purpose, and these records must be open to the inspection of qualified voters of the district at all reasonable hours.

Must Publish Statement of Receipts and Disbursements.—Boards of education are required by law to publish each year at least twenty days immediately preceding the annual meeting of the district a full and complete detailed account of all moneys received by the board or by the treasurer and of each item of purchase or expense and the amount thereof. This must be published in a newspaper printed in the district; but if no newspaper is printed in

the district, the statement must be posted in at least five public places in the district.

Board Should Report Estimated Expenses.—The board should report to the annual meeting an estimate in writing of the money needed for school purposes for the ensuing year. This report should state the purposes for which the money will be needed and the amount for each of such purposes. Such statement could also be presented at a special meeting called for that purpose.

Vote on Taxes for Such Estimate.—In a union free-school district whose boundaries do not coincide with those of an incorporated village, the annual or special meeting, upon receiving such estimate, should vote upon levying taxes to meet such estimated expenditures. If demanded by any voter, a separate vote should be taken upon each item. The meeting may increase the amount for any item, and may decrease the amount for any item, except for teachers' wages and contingent expenses.

Board May Levy Tax Without Vote.—If a meeting should neglect or refuse to vote the estimated amount for teachers' salaries, the board, after applying all available funds therefor, may levy a tax upon the district for the balance of the money needed, without a vote of the district to authorize it. The same action may be taken by the board on the amount estimated for contingent expenses.

Settlement of Disputes on Contingent Expenses.—All disputes that may arise as to what contingent expenses are, should be referred to the Commissioner of Education and his decision shall be final.

City or Village Authorities May Levy Tax.—Boards of education in union free-school districts whose boundaries coincide with those of an incorporated village, should prepare a written statement, addressed to the corporate authorities of such village, showing the amount of money necessary for teachers' wages and for the ordinary contingent expenses of the district. The statement should be specific, showing the several items and the amount of money therefor for which it is proposed to make an expenditure. The corporate authorities, upon the receipt of such statement, should levy a tax upon the real and personal property of their village, in the same manner that taxes are levied for the expenses of the municipal government, and for the same amount that the board of education set forth in their statement as necessary for school pur-

poses. Such corporate authorities have no discretion in the matter whatever, but are required to levy such tax.

Whenever the voters of such union free-school districts shall have decided at a special meeting, duly convened, to expend any amount for a new site, an addition to the present site, or for the erection of school buildings, or for apparatus or fixtures, or for any other purpose for the welfare of the school system of such district, the said corporate authorities must also raise such amount by tax in the same manner as for any other corporate purpose.

Regular Meeting.—Boards of education are required by law to hold regular meetings at least once each quarter, and they may hold them oftener.

The meetings of a board shall be public and any legal voter of the district may be present. Boards may, however, hold executive sessions, and at such sessions only members of the board or those invited by the board shall be present.

Visitation of Schools.—Boards shall appoint from their members visiting committees, whose duties shall be to visit the schools and departments under their supervision at least twice each quarter and to present a report to the board at its next regular meeting after any such visits have been made.

Money to be Held by City or Village Treasurer.—All moneys raised for the support of union free schools in any incorporated village, or apportioned to such schools from the income of the literature, the common-school, or the United States deposit funds, or from any other source, must be paid into the treasury of such village. This fund must be kept by the treasurer separate from all other funds in his possession. The treasurer is also required to give such additional security for the safe keeping of this money as the corporate authorities may require.

How Money Shall be Disbursed.—Before any of such money shall be disbursed the board of education must pass a resolution directing what amount shall be expended and the purpose or purposes for which it shall be used. Upon such resolution of the board, drafts shall be drawn by the president and countersigned by the secretary or clerk. These drafts should show the purposes for which the money is expended.

Moneys to be Held by Treasurer of Board.—All moneys raised in a union free-school district whose boundaries do not coincide with those of an incorporated village, and all moneys appor-

tioned to such districts from any fund or source shall be paid to the treasurer of the board of education.

Disbursement of Such Moneys.—Moneys in these districts shall be disbursed in the same manner as they are by treasurers of incorporated villages.

Supervision of Commissioner of Education.—The Commissioner of Education has general supervision of each and every union free school and all its departments. He also has general supervision of boards of education and their management of the school system.

Boards to Make Reports.—On the first day of August of each year every board of education must file with the town clerk of the town in which the schoolhouse of its district is located, a report to the Commissioner of Education for the school year ending July 31st preceding. The report should include all information required by law and all that the Commissioner of Education shall require. Boards of education must also, upon the request of the Commissioner of Education, make a special report to him on any designated subject relating to the condition of their school or schools.

Board of Education May Adopt an Academy as an Academic Department.—If an academy exists in a district organized as a union free-school district, the board of education, if directed by a vote of the district to do so, may adopt such academy as the academic department of the union free-school district. Consent to such transaction must, of course, be obtained from the trustees of such academy. The trustees of such academy, when they have given such consent, should pass a resolution declaring their office as trustees vacant. A certificate to the effect that such resolution was adopted should be signed by the officers of the board of trustees of such academy and filed in the office of the clerk of the county in which such academy is located. After these various steps have been taken such academy becomes the academic department of such union free school.

Board May Lease an Academy.—The board of education of a union free-school district, with the approval of the Commissioner of Education, may adopt an academy as the academic department thereof, and contract for the instruction therein of pupils of academic grade, residing in the district. The academy thereupon becomes the academic department of such union free school, and the district is entitled to the same rights and privileges, is subject

to the same duties, and the apportionment and distribution of State school money shall be made to it, as if an academic department had been established in such school.

Expenses of Representatives of Boards of Education to Attend Educational Meetings is Not a Proper Public Charge.—In July, 1899, the clerk and two members of the board of education of the city of Syracuse attended the annual meeting of the National Educational Association at Los Angeles, Cal. These representatives attended under direction from the board of education. Their legitimate expenses in attending this meeting were audited by the board of education. An action was brought by a taxpayer of the city of Syracuse to restrain the board of education from paying these expenses. The Supreme Court held that such expenses were not a proper public charge. An appeal was taken from the action of the court to the Appellate Division. This court for the fourth department affirmed the action of the Supreme Court. There is no doubt but that the ruling of the court in this matter applies to the powers of each board of education in the State. (52 App. Div. 579.)

Issue Certificate of Indebtedness.—When taxes have been levied by a district, but not collected, the board of education of a district may borrow money to an amount not to exceed the amount of such uncollected taxes for the purposes of meeting the expenses of the current fiscal year. This money may be borrowed by issuing certificates of indebtedness which must be signed by the president and clerk of the board. Such certificates must be payable within the current fiscal year or within nine months thereafter. They shall bear a rate of interest not to exceed six per cent.

Night Schools.—A board of education may establish night schools free to all residents of the district. A person over twenty-one years of age is therefore entitled to attend a night school when one has been established, without the payment of tuition. They may also prescribe courses of study therein.

Kindergartens.—A board of education may establish kindergartens which shall be free to all resident children of the district between the ages of four and six years.

Medical Inspection.—The board of education of each union free-school district is required to employ, at a compensation to be agreed upon by the parties, a competent physician to make inspections of pupils attending the public schools in such district and town-

ship. Such board may also employ one or more school nurses, who must be registered trained nurses and authorized to practice as such. The expense of such medical inspection is a charge upon the district or township. The chapter on medical inspection treats this subject fully.

REVIEW QUESTIONS

How are rules for the government of a board of education adopted? What regulations may a board adopt for schools? Explain the relation of a teacher to such regulations.

Who is the proper authority to adopt courses of study for union free schools? Who determines how pupils shall be graded, classified and promoted? In what subject are boards of education required by special provision of law to provide for instruction? What authority has a board of education in determining the text-books to be used in their school? When may a board provide text-books for pupils?

When may a board purchase a site? Erect buildings? Repair buildings? Purchase furniture or apparatus? Hire school-rooms and furnish them? What is the duty of a board in relation to insuring property? How may premiums for such insurance be raised? Who is the custodian of the property owned by a union free-school district? What does such property include? Is such property subject to taxation?

When may a board sell real property of the district? How is title to such property transferred? What disposition must be made of the money thus realized? When may a board exchange real estate? What power has a board relative to holding property in trust?

What general control of schools under its jurisdiction has a board of education? By what authority is the control of a board limited? Who determines the conditions under which non-resident pupils are admitted? What is the law relative to tuition of such pupils in cases where their parents or guardians are taxed for school purposes? When may separate schools for colored children be employed? May colored children be excluded from a public school? By whom are teachers employed? What prohibition is there relative to the teachers that a board may employ? What is the law relative to the contract between teachers and board? What should such contract express? For what causes may a board remove a teacher? What power has a board of education to fill a vacancy on such board? What power has a board to remove any of its members? What is the duty of a board in providing water-closets and in keeping them in proper condition? What in relation to outside stairways? What general powers of trustees of common-school districts are conferred upon boards of education? What powers of trustees of academies?

When may a board of education appoint a superintendent of schools? How is the population of such district determined? By whom are the duties of such superintendent prescribed? How may he be removed from office? What amount is such district entitled to receive from the State for employing such superintendent?

What records are boards required to keep? Who may inspect such records? State fully what is required of boards relative to publishing receipts and disbursements. What estimates are boards required to present to annual meetings? What action should be taken upon such estimate at a district meeting? What estimates may be reduced? What estimates cannot be reduced? What estimates may be increased? If a district meeting should refuse to vote a tax for teachers' salaries, what action may a board take? What in case of contingent expenses? How may disputes relative to contingent expenses be settled? When should a board of education present an estimate to the corporate authorities of a city or village? For what should such estimate be made? What is the duty of such corporate authorities when such estimate is properly presented to them? What is the duty of such corporate authorities when the district has voted an expenditure for sites or buildings?

What meetings must boards of education hold? How often? Must these meetings be public? What are executive meetings? What provision should a board make for visitation of schools?

Who holds the school funds in a union free-school district whose boundaries coincide with those of an incorporated village or a city? How must the funds of such district be kept? What additional security must such treasurer give? How are the funds of such district disbursed? Who holds the funds of a union free-school district whose boundaries do not coincide with those of an incorporated village or a city? How are such funds disbursed?

What supervision has the Commissioner of Education over union free-schools? Over boards of education? What reports are boards of education required to make? When? To whom? Where should each report be filed? What information should it contain?

When may an academy be adopted as the academic department of a union free school? State fully what steps should be taken in proceedings of this kind. When may a board lease an academy and its site? What is the rule in relation to the payment of expenses of members of boards of education while attending educational conventions? Explain the authority of a board of education to issue certificates of indebtedness. Who may establish night schools? Who is eligible to attend? Who possesses the power to establish kindergartens? What is the power and duty of the board with respect to the employment of a medical inspector? School nurse? When may a board of education authorize the medical inspection of children in attendance upon schools?

CHAPTER XV

TOWN SCHOOL BUDGET — TOWN SCHOOL TAXES

[Article XI-A]

Preparation of Tax Budget.— Each town board of education is required to prepare an itemized tax budget on or before the first day of July annually. This budget must be in triplicate. It must contain a statement of the amount of funds required to be raised by tax for school purposes in the town for the ensuing school year. The budget must also contain a statement showing the estimated amount of funds which the board expects to receive from the State in the apportionment of public money and the expected amount to be received from other sources. For the year 1917 it was impossible of course to prepare this budget on or before the first day of July. The provision of the law requiring the budget to be issued on July 1st is directory and not mandatory. The failure, therefore, to prepare such budget on the first day of July does not bar the board from preparing such budget at a later date. Since the board of education did not assume its functions in 1917 until the first day of August it was not possible for that board to prepare a statement of the budget on July 1st. The board, however, in each succeeding year, should prepare such budget on or before the first day of July.

The law specifically provides that the board of education shall specify the specific amounts which it proposes to raise for the following purposes:

a. The salaries and compensation of principals, teachers, medical inspectors, nurses, attendance officers, janitors and other employees appointed or employed by said board of education.

b. All necessary incidental and contingent expenses of the schools of the town, including transportation, the purchase of fuel and light, supplies, textbooks, school apparatus, furniture and other articles and services necessary for the proper maintenance, operation and support of the schools of the town.

c. The ordinary repairs of school buildings and other buildings under its control and management.

d. The remodeling, improvement or enlargement of existing buildings, and the construction of new buildings and the furnishing and equipment thereof.

e. The amount required to be raised for the payment of the interest and principal of bonds and other indebtedness lawfully incurred or to be incurred for school purposes and which are a charge against the town.

f. The amount which may be required for the payment of any other claim against the town arising from the support and maintenance of the schools of the town.

g. The amount voted at the annual or a special school meeting in the town on a proposition or question lawfully submitted at such meeting.

h. The amount determined upon as the proportionate share of the cost of maintaining a school in a district partly in two or more towns, required to be paid by said board.

Publication of Budget.— It is the duty of the clerk of the board of education to publish the budget which has been prepared by such board once each week for the four weeks next preceding the first day of August. This budget should be published in two newspapers, if there are two published in the town, or in one paper if there shall be but one published in the town. In addition to the publication of the budget the clerk should post a written or printed copy of the budget in at least five of the most public places in the town. This notice should be posted at least twenty days preceding the first day of August.

Signature to Budget.— This tax budget should be signed in duplicate by the members of the board of education and the signature of at least the majority of such members is necessary to give validity to the budget.

Filing Budget.— One copy of such tax budget should be filed on or before the first day of September in the office of the clerk of the board of education and the other copy should be filed in the office of the clerk of the town.

Examination of School Budget.— It is the duty of the district superintendent to examine the tax budget on file in the office of the clerk of each board of education during the month of August in each year. If such superintendent discovers errors or other irregu-

larities in the budget it is his duty to see that the board of education corrects the same.

District Superintendent to Aid Boards in Preparing Budget.—The law specifically provides that the district superintendent shall aid the board of education of each town in his supervisory district in the preparation of school budgets and in the review and correction of such budgets, and that the district superintendent shall perform such other duties in relation to such budget as the Commissioner of Education shall prescribe.

Supplemental Budget.—A town board of education has authority to issue a supplemental budget under the same procedure by which it issues its regular annual budget. Such supplemental budget may be issued under either of the following conditions:

a. To raise funds for any lawful purpose authorized by the vote of an annual or special town school meeting.

b. When the amount raised in the annual tax budget for the purposes specified therein are insufficient for such purposes and such amounts may be raised by taxation by the board of education without being authorized by the voters of the town at a town school meeting.

The board of education should follow the same procedure in the preparation of such budget and in filing it as is required of the board in preparing and filing an annual tax budget.

Endorsement of Supplemental Budget.—Before a supplemental budget may become effective the district superintendent of the supervisory district in which the town is situated must endorse such budget in writing by specifying that the purposes for which the amounts therein specified are to be raised are proper and legal.

Form of Budget.—The law provides that the Commissioner of Education shall prescribe the form of school budget to be used by town boards of education. The Commissioner of Education is further authorized to prescribe regulations not inconsistent with law providing for the review, correction and modification of such budget. The Commissioner of Education has prescribed the following form of budget:

ESTIMATED RECEIPTS

Public money for teachers' wages

Public money for library and apparatus

Public money for academic quota and attendance

Public money for nonresident tuition
 Other tuition receipts
 Receipts from other sources
 Balance to be raised by tax

ESTIMATED EXPENDITURES

- 1 General control (Regulative and executive service)**
 - Salaries of clerk of board
 - Other expenses of board of education
 - Compulsory education — salaries
 - Compulsory education — other expenses
 - School census
- 2 Instructional service (Supervision and teaching)**
 - Salaries of teachers
 - Textbooks
 - Other supplies used in instruction
- 3 Operation of school plant**
 - Wages of janitor and other employees
 - Fuel
 - Water, light and power
 - Janitor's supplies
 - Other expenses of operation
- 4 Maintenance of plant (Upkeep)**
 - Upkeep of grounds (repairs)
 - Repair of buildings
 - Repair and replacement of equipment
- 5 Fixed charges**
 - Insurance
 - Contributions and contingencies
- 6 Debt service**
 - Payment of bond
 - Redemption of short term loans
 - Payment of interest — on bonds
 - Payment of interest — on short term loans
 - Refunds of taxes and tuition.
- 7 Capital outlay (Acquisition and construction)**
 - Land
 - New buildings
 - Alteration of old building (not repairs)

Equipment — heating, lighting, plumbing and electrical

Equipment — furniture

Equipment — instructional apparatus

8 Auxiliary agencies and other sundry activities

Libraries — salaries

Libraries — books, repairs and replacements

Libraries — other expense

Health service — medical inspection

Health service — nurse service

Health service — dental service

Health service — other expense

Transportation of pupils

Care of children in institutions

Provision of lunches

Community lectures and social centers

Recreation

Payments to private schools and schools of other civil divisions

Township Law Makes No Change in Assessment and Collection of Taxes.—The township law provides that a town board of education shall assess, levy and collect taxes for school purposes in the same manner in which taxes have been assessed, levied and collected under former statutes by trustees of school districts. The provisions of the education law relating to the assessment, levy and collection of taxes have not been modified by the township law. A town board of education, or a board of education of a union free-school district, will therefore proceed, in getting out its tax list and in levying and collecting taxes, as trustees of school districts or boards of education of union free-school districts have proceeded in former years. The town board of education will place its tax list and warrant in the hands of the town collector for collection. Such collector becomes the collector of school taxes for the town and will proceed to collect the taxes called for on his tax list and warrant as the education law provides.

Board to Levy and Assess Taxes.—The law requires each town board of education to levy and assess against the taxable property within that portion of the town which is under the management of the board of education, the several amounts specified in the tax budget which has been adopted by the board of education

and in the supplemental tax budget, if any. This action of the board of education should be taken not later than the 10th day of September annually. This provision of the law, however, is directory, and if a board should fail to levy and assess such tax previous to the 10th day of September it would still have legal authority to levy and assess such tax thereafter.

Board's Warrant.— Upon completion of its tax list the board of education should immediately annex thereto its warrant for the collection of such tax. This warrant should direct the collector of the town to collect the tax so levied and assessed and pay the amount of such tax over to the town school treasurer. There is no such officer as a town school collector. The law provides that the officer known as the town collector shall collect the taxes for school purposes.

Powers of Collector.— A town collector has the same powers and jurisdiction in relation to the collection of school taxes that he has in relation to all other taxes levied upon the taxable property of the town. The provisions of law regulating the collection of town taxes, except as otherwise provided in this act, apply to the collection of school taxes.

Collector's Bond.— Before the board of education transmits to the town collector the warrant for the collection of school taxes such collector should be required to execute a bond to the town board of education with one or more sureties to be approved by the board. The board also prescribes the amount of such bond which is to be condition upon the due and faithful collection of the taxes under the board's warrant, and the return of such taxes to the town school treasurer.

Laws Applying.— Under the provisions of the township law, the provisions of the education law relating to the assessment and the collection of taxes shall apply to the assessment of school taxes in a town by the board of education of such town and also to the collection of such taxes, except so far as the provisions of the township law may be in conflict. The provisions of law relating to such matters and not included in this chapter will be found in chapter XVI.

Assessment of Property in Two or More Towns.— It often occurs that school districts lie in more than one town. All of the taxable property of such districts must be assessed for school purposes in the town in which the schoolhouse of the district is located.

Such property must also be assessed at the same rate as the other taxable property of the town in which the principal schoolhouse is located. When property located within a school district is assessed for school purposes in a town other than that in which such property is situated, such property shall not be assessable for educational purposes in the town in which it is located.

Equalization of Values.—When real property lies in two or more towns the value of such property may be equalized by the supervisors of such towns upon the request of the boards of education of such towns, or upon the request of three or more persons liable to pay taxes upon real property in either of such towns. The provisions of section 414 of the Education Law, which regulates the equalization of values in school districts located in two or more towns, must be applied in the equalization of values in cases of this kind.

REVIEW QUESTIONS

When must a tax budget be prepared? By whom? What must it contain? Are the provisions as to date of issue directory or mandatory? Name eight specific purposes for which funds may be included in the budget. What publication of the budget is required? What notices must be posted? Who signs the budget? Where are copies filed? Who is required to examine the budget? What duty is imposed upon district superintendents in relation to the budget? For what purposes may a supplemental budget be issued? What procedure is followed? Who prescribes the form of the budget?

What is the general provision of the township law in relation to levying, assessing and collecting taxes? Has there been a change in the method of levying, assessing or collecting town school taxes? In union free-school districts? Who levys and assesses a tax for school purposes in a town? When? May the board assess taxes after such date? Upon what property is it assessed? What instrument must be attached to the tax list? By whom? What direction does it contain? Who collects school taxes in a town? What power has a town collector in collecting school taxes? What bond must he give? When? What laws regulate the collection of town school taxes? Explain how the property located in two or more towns must be assessed? How is the value of such property equalized?

CHAPTER XVI

ASSESSMENT AND COLLECTION OF TAXES IN UNION FREE-SCHOOL DISTRICTS

[Article 15]

Assessment of Taxes by Board of Education.— All union free-school districts which are not under the provisions of the township law should continue to assess and collect taxes as such districts formerly have done. It is the duty of the board of education to assess on the taxable property of the district all taxes voted by a district meeting for the current school year and all taxes which such board is authorized to raise without vote of such meeting, and to make out its tax-list therefor. A tax voted for the ensuing school year should be assessed and the tax-list therefor issued within thirty days after August first following. The courts of the State have held, however, that the law in this respect is directory only and that trustees may issue a tax-list and warrant after the expiration of such thirty days.

In assessing a tax voted by the district, a board of education may also assess at the same time a tax which they are authorized to assess without a vote of the district and may include two or more taxes in one tax-list.

A tax-list is not complete until it has passed from the board to the officer whose duty it is to collect it, and any time before its completion it may be altered and amended by the trustees.

Chapter 502, Laws of 1902, provides that any town in St. Lawrence county may adopt a uniform system of taxation for school purposes at a biennial town meeting. The details of the law may be found by consulting the session laws of 1902.

Heading on Tax-List.— The law directs that the board of education shall prefix to each tax-list a heading showing the purpose for which the different items of the tax are raised. Any tax-list not containing this heading will upon appeal be set aside by the Commissioner of Education. The details of each item need not be

set forth. If an item is for repairs, it is sufficient to state, "For repairs on schoolhouse, \$25," and it is not necessary to give each item included in such repairs.

Form of Tax-List.—In making out a tax-list boards should rule the necessary columns to give the information required in the form recommended by the State Tax Commissioners to town collectors. The following form is recommended:

1. The first column should contain the names of all the persons and corporations liable to taxation in the district.
2. The second column should show the number of acres of land to be taxed to each person or corporation, and should contain a description of the property taxed.
3. The third column should give the assessed valuation of such land.
4. The fourth column should give the full value of all the taxable personal property of each of the persons or corporations named in the first column.
5. Value of special franchise.
6. Valuation of taxable rents reserved.
7. The total tax assessed against each individual or corporation.

Boards cannot place upon a tax-list the uncollected taxes of some former tax-list. They cannot increase the assessment upon the property included in a tax-list to make up a loss caused by a failure to assess property upon a former list. If property is omitted from a tax-list and the mistake is not discovered until the taxes are collected and the warrant is returned, it is too late to remedy the mistake.

Apportionment of Taxes Upon Real Estate.—Boards must apportion district taxes upon all real estate within the boundaries of the district, except that which is exempt by law from taxation. Such property must be assessed to the person or corporation owning or possessing it at the time the tax-list is made out.

Real Estate Lying in One Body but in Two or More Districts.—Lands lying in one body but located in two or more school districts, and occupied by the same person either as owner or as agent for the same principal or tenant under the same landlord, if assessed as one lot by the town assessors, are taxable in the district in which the occupant of such lands resides.

In cases of this kind there are four conditions must be found

to exist in order to authorize an assessment of the entire property in that district in which the occupant resides. These are:

First. The land must lie in one body. It is not sufficient that such lands shall be joined by a mere *point*. There must be an actual *line* of contact.

Second. The title of such lands must be vested in the same person. If there is a joint ownership of such lands, they cannot be assessed under this provision.

Third. The occupancy of such lands must be determined. The whole body of such land must be occupied by one person. This person must be either the owner of such lands or the agent or tenant of one and the same landlord.

Fourth. The lands must have been assessed as one lot on the last assessment roll of the town after revision by the assessors.

All lands of this description which do not comply with the four provisions above given, must be assessed for their respective portions in the district in which such parts are located.

Assessment of Vacant Land.—When any real estate within a district so liable to taxation shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district, at the time of making out any tax-list by which any tax shall be imposed thereon, shall make and insert in such tax-list a statement and description of every such lot, piece or parcel of land so owned by nonresidents therein, in the same manner as required by law from town assessors in making out the assessment-roll of their towns; and if any such lot is known to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment-roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment-roll to the whole tract of which such lot or piece shall be part.

A collector cannot levy upon and sell the personal property of the owner of non-resident land.

But if the owner of real estate in any school district improves and occupies such land himself, or causes it to be improved or occupied by an agent or servant, such owner, in regard to the liability

of such property to taxation, is considered a taxable inhabitant of such district. In this case a collector could seize and sell the personal property of the owner of such estate for the amount of school taxes.

If such real estate is occupied by tenants or sub-tenants they are the proper persons to whom such property should be assessed, and not the owner thereof. If such tenants improve the land, although they do not reside on it, they are considered under the law taxable inhabitants of such district.

Assessment of Bank Stock.—A board of education should include in its tax-list real property owned by a bank or banking association organized under the laws of the State or of the United States and located in its district. However, the stock of such bank and the bank's personal property should not be included in such tax list. Bank stock and the personal property of a bank is assessed by the board of supervisors for all State, county, city, village, town and school district purposes. A bank is required to pay a tax of one per cent on the value of its stock to the county treasurer of the county in which the bank is located. No deduction can be made on the value of this stock because of the personal indebtedness of the owners of such stock. The tax must be paid on or before the thirty-first day of December annually. It is immaterial where the holder of bank stock may reside. Such stock is assessable in the tax district in which the bank is located. The value of a share of bank stock is determined by adding together the amount of the capital stock, the surplus and the undivided profits and dividing this sum by the number of shares of such bank.

The clerk of a school district in which a bank is located is required to file with the board of supervisors during the first week of the annual session of such board a written statement under oath showing the tax rate of the district for the preceding year. A similar statement as to the tax rate of each city, village, town or other tax district in which a bank is located must also be filed. The amount of tax on such bank stock due a school district is such proportion of the tax as the tax rate of such school district bears to the aggregate tax rates of all the tax districts in which such shares of stock are taxable. The county treasurer should pay to each school district its proportionate share of such tax after deducting therefrom a fee of one per cent for collection. (Section 24, Tax Law.)

Apportionment of Taxes on Personal Property.— Trustees must apportion district taxes upon all persons residing in the district and upon all corporations, for all personal property owned by them and liable to taxation in such district.

Property Exempt from Taxation.— Under the tax law the following property is exempt from taxation and cannot be assessed for school purposes:

1. Property of the United States.
2. Property of the State of New York except wild or forest lands in the forest preserve or other property which special acts make assessable in certain school districts.
3. Property of a municipal corporation held for public use and situated within the corporation, including real property held or used for cemetery purposes.
4. Property exempt by law from execution other than an exempt homestead. The tax law specifically provides that real property purchased with the proceeds of a pension shall be assessable for school purposes.
5. The real property of a corporation or association organized exclusively for the moral or mental improvement of men or women, or for religious, bible, tract, charitable, benevolent, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes, and the personal property of any such corporation shall be exempt from taxation. But no such corporation or association shall be entitled to any such exemption if any officer, member or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.
6. Real property not exceeding in value \$15,000 of an incorporated association of volunteer firemen when such property is used exclusively by such association.

7. The real property of an agricultural association permanently used by it for exhibition grounds.

8. The dwelling houses and lots of religious corporations while actually used by the officiating clergymen thereof. The total amount of such exemption of any one religious corporation shall not exceed \$2,000.

9. The real and personal property of a minister of the gospel or priest of any denomination being an actual resident and inhabitant of this State, who is engaged in the work assigned to him by the church or denomination to which he belongs, or who is disabled by impaired health from the performance of such duties, or over seventy years of age, and the property of the widow of such minister while she remains such and is an actual resident and inhabitant of this State, but the total amount of such exemption on account of both real and personal property, shall not exceed fifteen hundred dollars.

10. Household furniture and personal effects to the value of one thousand dollars.

Valuation of Property.—Boards of education, in making out a tax-list, must ascertain the valuation of taxable property so far as possible, from the last assessment-roll of the town after such roll has been revised by the assessors.

Reduction of Valuation.—The valuation of any property shall not be reduced from that given in the town assessment-roll, unless the persons claiming such reduction file a written notice of such claim with the trustees before the tax-list is completed. When such claim is duly filed and it appears that the property in question has diminished in value since the last assessment-roll of the town was made, or it appears that an error has been made by the town assessors, it is the duty of the trustees to ascertain the true value of such property. The law provides that they shall give notice to the interested parties and proceed in the same manner as town assessors. If, in the judgment of the trustees, such claim is valid, they should reduce the valuation of the property and make out their tax-list. Such tax-list should be left with one of the trustees or at some place where interested persons can inspect it for at least twenty days from the date on which the notice of the completion of such tax-list is given. The notice of the completion of such tax-list and of the original assessment must be posted in at least three public

places in the district. When the valuation of property is reduced the *interested parties* are all the tax-payers of the district.

Assessment of Property by Trustees.—When any taxable property of the district is not included in the assessment-roll of the town, it is the duty of trustees to place such property on the tax-list of the district and give it a valuation, or if any property shall have increased in valuation since the last assessment-roll of the town was revised, it is the duty of trustees to give such property an increased valuation. In either of these cases, trustees should serve a notice of their action on the person so assessed; it is not necessary to post notices in the district.

Equalization of Valuations by Supervisors.—When the trustees of a district which embraces parts of two or more towns request the supervisors of such towns to meet to determine whether the assessments of property in these towns are equitable when compared with each other, or when three or more persons liable to pay tax on real estate make such request, it is the duty of the supervisors to comply with such request. This request to supervisors should be written, and the meeting of the supervisors should be not less than five nor more than ten days from the service of such notice. The notice should name the time and should designate some place within the bounds of the towns in which the districts are located.

If the supervisors find that such assessments of property are not equitable, they should determine the relative proportion of taxes that should be assessed upon the property of the parts of such district lying in different towns. Thereafter, trustees should assess in accordance with such determination until new assessment-rolls of the towns are perfected and filed.

When the supervisors are unable to agree, they may summon the supervisor of an adjoining town and the finding of a majority of them shall be the determination of the question.

Apportionment of Valuation of Railroad, Telegraph, Telephone, Water Pipe Line or Gas Companies and of Special Franchises Between School Districts.—It is the duty of the assessors of a town in which a railroad, telegraph, telephone, water pipe line or gas company is located to apportion the value thereof between the several school districts through which it extends. Such apportionments shall be entered by the assessors in the appropriate column of the assessment-roll and a certificate thereof signed by the assessors or a majority of them shall be filed with the town or city clerk

within five days thereafter, and thereupon the valuations so apportioned shall become the valuations of such property in such districts for the purpose of taxation for the ensuing year.

It is the duty of the town clerk to furnish the trustees of the districts interested a certified statement of the valuations apportioned. If the assessors refuse to make such apportionment, the supervisor of the town must make it either upon the request of the trustee of a district or of the corporation assessed. (Article 2, Tax Law.)

A Person Working Land on Shares.—A tenant working land and paying a share of the produce as rent is liable to taxation for school purposes on such land. In all cases of doubt it is safer to assess taxes to the owner of land than to the tenant.

A Person in Possession Under Contract.—Any person in possession of real property under contract for the purchase thereof is liable to taxation for school purposes in the district in which such property is located.

Tenant's Tax Chargeable to Landlord.—A person who is tenant at will or for three years or a shorter period of time, and who pays a tax upon the real estate of which he is in possession, for the purpose of purchasing a site for a schoolhouse, or for purchasing, building, or repairing a schoolhouse, or for supplying the necessary fuel and appurtenances, may require the owner of such real estate to refund the amount paid for such taxes. The owner of such real estate could not be compelled by the tenant to pay such tax if he had made an agreement that such tenant should pay the tax.

Exempt from Taxation for Building a Schoolhouse.—Any taxable inhabitant of a district shall be exempt from taxation for the purpose of building a schoolhouse in the district in which he resides, under the following conditions: Such inhabitant must have been set off from some other district *without his consent*, within four years previous to the assessment of such tax and such inhabitant must have paid within that period in the district from which he was set off a tax for building a schoolhouse in such other district. A voluntary contribution toward building a schoolhouse is not a tax. If such inhabitant was set off from a district *with his consent*, he is not exempt from the taxation in question.

Warrant for Collection of Taxes.—The warrant for the collection of a district tax should be issued by the board and signed

by them or a majority of them. A warrant may be signed with or without seal. It is the official document which gives the collector authority to collect all taxes included in the tax-list. The warrant confers upon a school-district collector the same powers that are conferred upon town collectors by the warrant of the board of supervisors.

Delivery of Warrant.—A warrant for the collection of any tax voted by the district must not be delivered to the collector until the thirty-first day after the tax is voted.

A warrant for the collection of a tax which trustees are authorized to raise without a vote of the district may be delivered to the collector whenever it is completed.

Trustees should take a written receipt from a collector for every tax-list and warrant delivered to such collector. Such receipt should show the date on which the warrant is returnable and the amount to be collected.

Notice of Receiving Taxes.—As soon as the collector receives a warrant for the collection of taxes, he should post notices in at least three public places in the district — one of these notices must be on the outside of the front door of the schoolhouse — stating that such warrant has been received by him and that during the ensuing thirty days from the date of such notices he will receive all taxes voluntarily paid to him.

If there is any assessment on the tax-list against a railroad company or against any canal or pipe line company, the collector must notify such company either personally or by mail at least twenty days before the expiration of the thirty days above mentioned. If a collector fails to give such notice, he will be entitled to receive only one per cent fees for the collection of such taxes. This notice may be filed, in the case of a railroad, with the ticket agent of such railroad nearest the district in which such tax is assessed, and in the case of a canal or pipe-line company, with the president, secretary, or general division superintendent or manager of such company.

If the tax of any non-resident is more than one dollar, the collector should give like notice to such nonresident, if his post-office address is known to the collector or if the collector can ascertain what such address is from the trustees or the clerk of the district.

Notice of Assessment and Tax to Railroad and Other Companies.—A collector within five days after receiving a tax or

assessment-roll should deliver to the county treasurer a statement showing the name of every railroad, telegraph, telephone, electric light or gas company appearing on such roll, the assessment of real and personal property against such company and the amount of tax. The county treasurer should then notify the ticket agent or manager of any such railroad, telegraph, telephone, electric light or gas company at the station nearest to the office of such treasurer of the receipt of such statement and the amount of tax to be paid by such company.

Such Companies May Pay Tax to County Treasurer.—A railroad, telegraph, telephone, electric light or gas company may pay its school tax, within thirty days after receiving notice that such tax has been levied, to the treasurer of the county but must add a fee of one per centum to the amount of such tax. A railroad company may pay its tax direct to the collector of a district.

Company's Failure to Pay Tax Within Thirty Days.—If such railroad, telegraph, telephone, electric light or gas company fails to pay its tax within thirty days, the county treasurer should notify the collector of the school district. It is then the duty of the collector to proceed to collect such tax with five per centum thereon. A collector cannot legally proceed to the collection of such tax previous to the receipt of such notice from the county treasurer.

County Treasurer Must Pay Funds to the Collector.—The county treasurer should pay any tax paid to him by a railroad company to the collector of the district by which such tax was levied, together with the one per cent fee collected on such tax.

Renewals of Warrants.—If any of the taxes on a tax-list are not paid previous to the expiration of the trustees' warrant, the trustees may renew such warrant and allow the collector additional time to collect such unpaid taxes. This renewal should be indorsed upon or attached to the original warrant and should state the period of time for which it is issued. A warrant may be renewed more than once, but the approval of the supervisor of the town in which the district is located is necessary. Where such approval is not obtained, a warrant can be renewed only once.

Amendment or Correction of Tax-List.—Whenever the trustees discover that an error has been made in the tax-list, such tax-list may be amended or corrected upon application to the Commissioner of Education. The application should state the exact facts

relative to such error, the date of the tax-list, and the number of the district and the name of the town in which such district is located.

Filing Tax-List and Warrant.— Within fifteen days after any tax-list and warrant has been returned by a collector to the trustees of a district, such trustees should deliver such tax-list and warrant to the town clerk of the town in which the collector resides.

Board May Sue for Tax.— When any tax on a tax-list has not been paid, either by an individual or a corporation, within the time permitted by the warrant or the renewal of a warrant, the board may in their name of office sue such individual or corporation for such unpaid taxes.

Board May Sue Collector's Bond.— For all forfeitures to which a collector is liable and for all money which he may neglect or refuse to pay to his successors in office, or the treasurer of the district, the board may sue the bond of such collector.

Collector's Return of Unpaid Taxes.— The law provides that a collector shall make a return to the board of education of all unpaid taxes on real estate and upon nonresident stockholders in banking associations organized under the laws of congress. This return must be made at the time the collector returns his warrant to the board. A copy of that part of the assessment-roll unpaid must be made by the collector, and he must make an affidavit before some person authorized to administer oaths that the taxes named in such copy are unpaid, and that after diligent efforts he has been unable to collect the same. After a collector has pursued this course, the board should credit him with the amount of such unpaid taxes, and thus relieve him from the liability resulting from negligence in collecting.

Board's Certificate to County Treasurer.— As soon as the board of any district receive such return from a collector, they should compare it with the original tax-list, and if they find it to be a true copy, they should attach thereto their certificate showing that they have made such comparison and that they find such return correct. The board should then transmit the return of the collector of such unpaid taxes, together with the collector's affidavit and their certificate, to the county treasurer.

Collection of Such Unpaid Taxes.— The county treasurer should present to the board of supervisors of the county the collector's return of such unpaid taxes, the collector's affidavit, and the certificate of comparison by the board of education; and such board

of supervisors should thereupon assess the amount of such unpaid taxes, with seven per cent of such sum in addition thereto, upon the very same property upon which the board of education originally assessed the tax. If such taxes are then paid, a return should be made to the county treasurer. If these taxes should not be paid, the county treasurer should render an account thereof to the State Comptroller, and that officer should sell the land on which such taxes are assessed as the law directs.

Any person against whom such unpaid taxes stand may voluntarily pay such tax, with five per cent in addition thereto, to the county treasurer, any time before the board of supervisors have directed that such tax be levied.

Payment of Such Unpaid Taxes by County.—The county treasurer upon receiving the required papers to be filed with him, should pay to the collector of the district in which such taxes were levied the amount of such unpaid taxes from the contingent fund or money raised for the purpose of paying such taxes. If there is no contingent or other fund available for this purpose at the time of levying such unpaid taxes, the board of supervisors shall pay to the district the amount of such taxes which has been relieved.

Collector's Receipt.—The tax law requires a school district collector to give a written or printed receipt to each person paying a tax. This receipt must show the date of payment, name of person, description of property, amount of tax, date of delivery of assessment roll. The trustee must supply the collector with a book of receipts in form approved by the State Tax Commissioners. In issuing such receipt the collector must fill in the blank stubs the essential facts called for in the receipt.

REVIEW QUESTIONS

Who is charged with the duty of making out a district tax-list in a union free-school district? When should a tax-list for a tax voted by such district be made out? What have the courts ruled on this question? What taxes may a board include in one tax-list? When is a tax-list complete? When may a tax-list be altered? Explain the nature of the heading which should be prefixed to a tax-list. Into how many columns should a paper on which a tax-list is made be ruled? State the information which should be given in each column. Have boards the power to include in a tax-list the uncollected taxes of a former tax-list? Have they the power to assess upon property a tax to meet a loss caused by a failure to assess property on a former tax-list? When can the omission of a board to assess property be corrected?

Upon what real estate must boards assess district taxes? To whom should such property be assessed? What is the law relative to assessing real estate lying in one body but in two or more districts? What are the four questions to be determined in these cases? How must such lands be assessed when they do not comply with these provisions? What is non-resident land? How should such land be assessed? State fully how it should be placed upon the tax-list? How should it be described? Can a collector legally sell the personal property of the owner of non-resident land for a tax on such land? When a non-resident owns real estate in a school district and when he improves such property himself or causes it to be improved by an agent, what is his liability for taxes? When such property is occupied by tenants or sub-tenants, to whom should it be assessed? What property owned by a bank or banking association may be taxed? May bank stock be taxed? Explain how a bank pays its school taxes.

What personal property should be assessed by boards for district taxes? How is the valuation of property ascertained by boards? State ten classes of property exempt from taxation for school purposes. Have boards the power to reduce the valuation of property? What must a person do who desires the valuation of his property reduced? What is the duty of boards when such claim is filed? If a board at any time changes the valuation of property, what should such board do? What notice of completion of tax-list must be given? When the valuation of property is reduced who are *interested parties*? What is the duty of boards in relation to real property of the district not found on the town assessment-roll? What is their duty in relation to property that has increased in value since the last town assessment-roll was revised? What is their duty in relation to personal property not on the town assessment-roll? What notice should be given in any of these three cases when property is assessed by a board?

Who determines whether the property of a district located in two or more towns is equitably assessed? When are supervisors required to act in this capacity? If such supervisors agree that such property is not equitably assessed, what is their duty? What should be done if they are unable to agree?

Explain how the apportionment of values is made in the case of certain corporations. When is a tenant liable for taxes on land? In cases of doubt, to whom should such land be assessed? Who is liable to taxation for real property which is in the possession of a person under a contract of purchase? Under what conditions and for what taxes may a tenant require his landlord to refund the amount of taxes paid by such tenant? Under what conditions is a taxable inhabitant of a district exempt from taxation for building a schoolhouse?

What is a board's warrant? How is it issued? What authority does it give a collector? When may a warrant for a tax voted by the district be legally delivered to the collector? When may a warrant for a tax which boards are authorized to levy without a vote of the district be delivered to the collector? What general notice of a warrant for taxes should a collector give? Where should such notices be posted? What special notice should be given to a railroad company or a canal or pipe-line company? How should such notice be given? How would a failure to give such notice affect

the collector? What special notice should be given to non-residents? What notice should be given to the county treasurer? Explain the two ways in which a railroad company may pay its tax. How should such notice be given? May a warrant be renewed? By whom? In what manner? May a warrant be renewed more than once? In what manner?

When may a tax-list be amended or corrected? By whom? What should the application for this purpose show? May boards sue for a tax? When? For what causes may a board sue a collector's bond? What should a board do with a tax-list and warrant returned by a collector?

To whom should a collector make a return of unpaid taxes? When should such return be made? How should it be made? What effect does such return have upon the liability of the collector? Upon receiving such return, what action should a board take? What should the county treasurer do to place the matter properly before the board of supervisors? What action should be taken by the board of supervisors? If these taxes are then paid what should be done with the amount paid? If these taxes are not paid, what action should be taken by the county treasurer? What should the comptroller then do? How may this amount be collected? When may it be voluntarily paid? From what fund should the county treasurer pay such tax? To whom? If there is no such fund how is such tax paid?

CHAPTER XVII

STATE SCHOOL MONEYS

[Article 18]

Common-School, Literature and the United States Deposit Funds.—The capital of the common-school fund, the capital of the literature fund, and the capital of the United States deposit fund shall be respectively preserved inviolate. The revenue of the said common-school fund shall be applied to the support of the common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund. Article IX, section 3, State Constitution.

[Section 1 of article IX of the amended constitution of 1846, without change.]

A statute authorizing an orphan asylum to share in the common-school fund would be in violation of this section. (People *ex rel.* v. Board of Education, 13 Barb. 400.)

The manner of the disposition of the common-school fund is left to the Legislature. (Dallas v. Fosdick, 40 How. Pr. 249, 252.) But the Legislature cannot appropriate therefrom for the construction of an astronomical observatory (People *ex rel.* v. Allen, 42 N. Y. 404); nor for the benefit of a normal school. (Gordon v. Cornes, 47 *id.* 608.)

The words "common schools" as used in this section mean such schools as are open to all, and not confined to any class. (People v. Board of Education, 13 Barb. 400; People *ex rel.* v. Crissley, 45 Hun, 19.)

No Aid in Denominational Schools.—Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination, or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught. Article IX, section 4, State Constitution.

Different Funds.—There are different sources from which money has been derived by the State for the support of the public

school system. These sources are the common-school fund, the United States deposit fund, and the free-school fund. These funds, together with the literature fund, are known under the Finance Law as the Education Fund.

The Common-School Fund.—Upon the recommendation in a special message of Governor Morgan Lewis to the State Legislature in 1805, an act was passed which created this fund. It provided that “The net proceeds of five hundred thousand acres of the vacant and unappropriated lands of the people of this State, which shall be first sold by the Surveyor-General, shall be and are hereby appropriated as a permanent fund for the support of common schools.” The act also provided that no distribution should be made until the annual revenues of the fund amounted to fifty thousand dollars. This revenue was not realized until 1815, when the first distribution was made. This fund was apportioned among the counties of the State on the basis of population, and each county was required to raise by taxation an amount equal to the amount received from the State. The revenue derived from these two sources constituted the State school moneys for the payment of teachers’ salaries. When this amount was insufficient to pay the salaries of teachers, the balance was raised by rate bills. In 1805, when this fund was originated, its capital was nearly fifty-nine thousand dollars; but in 1917, it had increased to over four million seven hundred seventy-three thousand dollars. Out of the revenue of this fund the Legislature annually appropriates for common schools one hundred and seventy thousand dollars.

The United States Deposit Fund.—On June 23, 1836, congress passed an act providing for the distribution of the surplus revenues which were held in the United States treasury at that time for safe-keeping among the various States. Of this distribution New York received about \$4,000,000. It must be understood that this fund was not given or loaned to the State, but was simply placed in its possession for safe-keeping. The United States government could recall this money, but probably it never will. Under a provision of the State Constitution, New York is required to keep the amount of this fund equal to the amount which was originally deposited. In 1837, by an act of the State Legislature, this fund was distributed among the counties of the State on the basis of population. It was placed in the hands of two loan commissioners in each county, who were appointed by the Governor, to be loaned by them in their

county upon bond and mortgage with interest. From the income derived from this fund, there was appropriated by the State Legislature in 1838 for the support of common schools, the sum of \$165,000. This sum was annually appropriated by the Legislature until 1881, when the appropriation was reduced to \$75,000, owing to a reduction in the revenue. This reduction in revenue was caused by a depreciation in the property on which investments from this fund had been made. Since 1881, the Legislature has annually appropriated from the revenues of this fund \$75,000, and this sum becomes a part of the State school moneys and is used for the support of the public schools.

The Free-School Fund.—The amount appropriated annually by the Legislature for the support of common schools is discretionary but as the law specifies the amount of a supervision, district and teachers' quota the Legislature must appropriate an amount sufficient for this purpose or assume the responsibility of changing the basis of apportioning school funds. The first State tax levied for this purpose was under the authority of an act passed in 1851, providing for the sum of \$800,000. This amount has been gradually increased. The greatest increase was in 1867, the year in which the rate-bills were abolished, when the Legislature increased the amount to be raised from a tax of three-fourths of a mill on each dollar of valuation, to one and one-fourth mills on the dollar. It was the intent of the Legislature when this increase was made, to supply funds, which, combined with the revenues of the common-school fund and the United States deposit fund, would be sufficient to support common schools in most of the school districts of the State for at least twenty-eight weeks each year.

The amount of money realized from these sources soon proved insufficient, in many cases, to support the schools the required time, and the deficiency has been raised by local taxes upon school districts. During the school year ending July 31, 1916, the entire cost for maintaining and supervising the public school system of the State, including all expenditures for normal schools and other institutions under the supervision of the Commissioner of Education, was \$79,551,529.46; and of this amount \$6,419,039.26 were received from State funds, \$61,601,746.15 were raised by local taxes upon the property of school districts and cities, and \$11,530,744.05 were derived from other sources.

The amount previously raised by direct taxation was known as

the free-school fund, but since the amount for this purpose has been appropriated from State funds obtained from indirect taxation the Legislature has not denominated it the free-school fund, but has appropriated this money for the support of common schools.

Gospel and School Lands.—The origin of these lands may be traced back to an act passed by the State Legislature, May 10, 1784. This was an act to provide for the settlement of the waste and unappropriated lands of the State. It was intended to include all of such lands located within the boundaries of the State. The act provided that such lands should be divided into townships of six miles square, as nearly as possible, and that in each of such townships 300 acres of land should be set apart for the use of a minister of the gospel, and 690 acres for the use of a public school or schools. On May 5, 1786, the State Legislature passed another act regulating the sale of the unappropriated public lands of the State, and providing that the Surveyor-General should mark out in each township laid out, one lot for the support of the gospel and schools, as nearly as possible in the center of each township, and that such lot should not be sold, but reserved for and applied to promoting the gospel and the public school or schools in such township: Under the provisions of this act, each lot was to contain 640 acres, or as nearly that amount as possible. On February 25, 1789, the Legislature passed another act regulating the sale and disposition of lands belonging to the State, and providing that townships should be divided into lots containing 250 acres of land or as nearly that amount as possible, and that one lot should be reserved as nearly in the center of each township as possible, for the support of the gospel, and that another lot should likewise be reserved for the support of schools in such township. Subsequent acts of the State Legislature provided that the annual rents and profits derived from these lots set apart for school purposes, should be distributed among the schools in each town employing teachers approved by the proper authority, in proportion to the aggregate attendance of pupils in their respective schools. The sale of the gospel and school lands has been directed by the State Legislature, and the proceeds derived therefrom authorized to be used for the benefit of the public schools in the towns in which such lands were located.

Literature Fund.—The first act creating this fund was passed in 1786. This act provided that unappropriated lands of the State should be sold by the Commissioners of the Land Office, and the

funds used for the promotion of literature in the State. The revenue derived from the sale of lands under several subsequent acts was added to this fund. Revenue derived from arrears of quit rents in 1819, from the sale of land belonging to the canal fund in 1827, and from the United States Deposit Fund in 1836, was also added to this fund.

The income derived from this fund is apportioned from the general fund for educational purposes. The capital of this fund is \$284,201.32.

State School Moneys Defined.—The amount appropriated by the State Legislature from the common-school fund and from the United States deposit fund, the literature fund, together with the amount appropriated from the other revenues of the State and formerly known as the Free School fund, constitute the State school moneys. These funds are apportioned as follows:

Supervision Quotas to Cities, Villages and Districts Employing Superintendents.—Every city in the State and every union free-school district in the State having a population of 5,000 or more—which employs a superintendent of schools, is entitled to receive \$800. This money must be used for the support of the public schools of such city or union free-school district. No city or district is entitled to this allowance unless a competent person is employed as superintendent, who shall give his time exclusively to the general supervision of the public schools of such city or district. This appropriation is known as a supervision quota.

Enumeration of Inhabitants.—A union free-school district, claiming a population of 5,000 and employing a superintendent, is not entitled to any allowance in the first instance until an enumeration of the inhabitants of such district has been made which shall show the population thereof to be at least 5,000. The expense of taking such enumeration is a charge upon the district in whose interest it is made, and must be paid upon the certificate of the Commissioner of Education. In a union free-school district whose boundaries are coterminous with the boundaries of an incorporated village and last federal or State census of such village may be used.

District and Teachers' Quotas.—A district or city, to be entitled to a district quota, must have had school taught therein by a duly licensed teacher (or by successive duly licensed teachers) for at least one hundred and eighty days, inclusive of legal holidays, and exclusive of Saturdays. Attendance at teachers' conferences

held within the county by the district superintendent, not exceeding six days during the year, may also be included. It is unlawful to count any Saturday as a part of the one hundred and eighty days of school required, and it is also unlawful to have school in session on a legal holiday, except general election day, Lincoln's Birthday and Washington's Birthday.*

For every additional duly licensed teacher (or successive duly licensed teachers) employed the required time of one hundred and eighty days, the district, city or orphan asylum shall be entitled to one teacher's quota.

The amount of a *district* quota is as follows: Each district having an assessed valuation of \$20,000 or less, \$200; each district having an assessed valuation of \$40,000 or less but more than \$20,000, \$175; each district having an assessed valuation of \$60,000 or less but more than \$40,000, \$150; each district having an assessed valuation greater than \$60,000, each orphan asylum having a school conforming to the regulations governing the public schools system and each city of the State, \$125. Each Indian reservation receives a quota of \$150 for each teacher employed therein for a period of thirty-two weeks or more.

The amount of a *teacher's* quota for each city and district is \$100.

The distinction between a district quota and a teacher's quota

* LEGAL HOLIDAYS.—The following days are legal holidays in this State:

January 1—New Years Day.

February 12—Lincoln's Birthday.

February 22—Washington's Birthday.

May 30—Memorial Day.

July 4—Independence Day.

First Monday in September—Labor Day.

October 12—Columbus Day.

First Tuesday after first Monday in November—General Election.

Last Thursday in November—Thanksgiving Day.

December 25—Christmas Day.

The first Thursday in June in each year, except in those years when the first Thursday in June occurs in the same week with Memorial Day, and in such years the second Thursday in June is known as Anniversary Day, and celebrated in commemoration of the organization of Sunday Schools, and is a holiday in all public schools in the borough of Brooklyn, City of New York.

If a legal holiday occurs on Sunday, the day following is observed and considered in all respects as a legal holiday.

should be clearly understood. An examination of section 491, Education Law, may give a clearer understanding.

When two or more districts are consolidated, the consolidated district is entitled to receive a quota equal to the aggregate amount of the quotas paid to the several districts before consolidation.

Training Class Quota.—A school maintaining a training class under the regulations of the Department is entitled to a quota of \$700. Such school would also be entitled to include in the number of teachers reported to the Department as employed 180 days or more the training class teacher and would be entitled to a teachers' quota of \$100 for such teacher.

Industrial Education Quota.—The amount of the quota to a city or district for maintaining a vocational school, trade school, agricultural school, domestic economy school, etc., is two-thirds of the salary paid the first teacher, or an amount not to exceed \$1,000. A district or city paying a vocational teacher \$1,200 would be entitled to receive from the State a quota of \$800; a district or city paying a salary of \$1,500 or \$1,800 would be entitled to receive from the State a quota of \$1,000. (See chapter 22 on Industrial Education.)

For each additional teacher employed in such schools a quota of one-third of the amount of the salary paid such teacher, but not exceeding \$1,000, is apportioned.

Director Agriculture Quota.—A city, town or union free-school district which employes a director of agricultural education under rules of the Regents is entitled to a quota of one-half the salary of such director, but not to exceed \$600.

Physical Education Quota.—A city, town or union free-school district is entitled to a quota of one-half the salary paid to each teacher or supervisor of physical education who is employed in such city, town or district in accordance with Regents rules. The amount of each quota shall in no case exceed \$600.

Additional Apportionment to Cities, Academic Departments and Libraries.—To each city, town, union school district, and nonsectarian academy for each academic department maintained therein, \$100.

To each nonsectarian private academy for approved books, reproduction of standard works of art and apparatus an amount equal to the amount raised from local sources but not to exceed \$250.

To each city for approved books, reproduction of standard works

of art and apparatus an allowance not to exceed \$18 and two dollars additional for each duly licensed teacher employed therein for the legal term and \$250 for each academic department.

To each union school district maintaining an academic department for approved books, reproduction of standard works of art and apparatus an allowance equal to the amount raised from local sources but not to exceed \$268 annually and two dollars additional for each teacher employed in the district for the legal term.

To all other school districts for approved books, reproduction of standard works of art, geographical maps and a globe an allowance not to exceed \$18 annually and two dollars additional for each duly licensed teacher employed in the district for the legal term.

The amount of tuition paid by the State for nonresident tuition in high schools or academic departments is \$20 per year for not less than thirty-two weeks. (See chapter 18.)

The amount appropriated for attendance is then apportioned to the high schools and the academic departments on the basis of attendance of the pupils therein during the preceding year.

Application of State School Funds.—All moneys apportioned to a school district or city by the Commissioner of Education as described in the preceding paragraphs, must be used by such district or city for the payment of the salaries of duly licensed teachers employed in such district or city, or for tuition and transportation of pupils. It is a misdemeanor for school authorities to use this money for any other purpose.

Allowance to Excluded Districts.—When a school district has been excluded from participation in any apportionment by failing to make a report required by law or by failing to comply with any other provision of law or with any regulation of the Commissioner of Education which he has authority to adopt, he may, in his discretion, when it shall be shown to his satisfaction that such omission was accidental or excusable, allow such district an equitable apportionment. If the apportionment was made by the Commissioner of Education, he may cause an equitable apportionment to be allowed such district to be paid out of the contingent fund; and if the apportionment was made by the district superintendent, he has authority to direct them to apportion such allowance to the district at their next annual apportionment. Such allowance must be in addition to any apportionment to which such district may then be entitled.

May Withhold School Moneys.—The Commissioner of Education may withhold the school money due a district or city for willful violation of a provision of law or a regulation of the Department. He may also withhold one-half the money due a city, town or district for failure to enforce the compulsory education law.

May Direct Payment of Quota when Teacher was not Qualified.—Where a teacher has been employed who was not duly qualified, the Commissioner of Education may, in his discretion, upon the recommendation of the district superintendent having jurisdiction over the district in which such teacher was employed, direct that the money equitably apportioned to such district shall be paid to such teacher in satisfaction of his or her wages.

May Reclaim Moneys Apportioned.—Whenever money shall have been apportioned to a county, part of county, or school district to which it was not entitled, and when such money shall not have been expended, the Commissioner of Education may reclaim such money or excess by directing that such money shall be paid by any officer in whose hands it may be, into the State treasury. Such money when reclaimed shall be credited to the free-school fund. If such money shall have been expended so that it shall be impracticable to reclaim it, the Commissioner of Education shall deduct such amount from the portions of the county or district which received it, in his next annual apportionment.

Supplemental Apportionment.—Whenever a school district or county shall have received by apportionment a less sum than it is entitled to, the Commissioner may make a supplementary apportionment to make up such deficiency, which apportionment shall be payable out of the contingent fund. If this fund is not sufficient for the purpose, the Commissioner shall supply such deficiency in his next annual apportionment.

Certificate of Apportionment.—As soon as possible after the Commissioner of Education has made an annual apportionment, he should file with the county clerk, the county treasurer, the district superintendents, and the city treasurers or chamberlains, of every county and city of the State, a certificate of apportionment for their county or city. When the Commissioner makes a supplemental apportionment, he should file a certificate of such apportionment with the county clerk, the county treasurer, and the district super-

intendents of the county in which the schoolhouses of the district are located.

When School Moneys are Payable.—One-half of the school moneys are payable on or before the first day of March and the remaining part on or before the fifteenth day of May in each year.

Apportionment by District Superintendent.—The district superintendents of each county are required to apportion on or before the fifteenth day of February in each year, the district, teachers' and supervision quotas.

To Set Apart District Quotas.—The district superintendents should first set apart to each school district under their jurisdiction the district and teachers' quotas apportioned to such districts by the Commissioner of Education. They should also set apart to each school district which did not share in the apportionment of the previous year, such sum as the Commissioner of Education shall have allowed it.

Unexpended Moneys in Hands of Supervisors.—District superintendents should obtain from the supervisor of the town a report of the unexpended moneys which were in his hands on the first Tuesday of February, and which were applicable to the payment of teachers' wages. The amount in each supervisor's hands is charged as a partial payment to his town on the amount due that town for district and teachers' quotas.

Apportionment of Fines Held by County Treasurer.—The district superintendents should also obtain from the county treasurer a report of the amount of money paid to him from fines and penalties or obtained from any other source for the benefit of the schools of any town or for any district in the county. If any such money has been received by the county treasurer for a school district it shall be set aside by the superintendents and credited to such district. If such money has been received for the schools of a town, then it shall be placed to the credit of such town and shall be apportioned to school districts of such town with the other school moneys belonging to the town, and shall be used to pay the salaries of teachers.

Superintendents' Certificate of Apportionment.—After having completed their apportionment, superintendents should make and sign two certificates showing the amount apportioned to each school district and part of a district, also the towns in which the districts are located and the source from which each item was derived. One

of these certificates should be immediately filed with the county treasurer and the other with the Commissioner of Education.

Superintendents' Certificate to Supervisors.—The superintendents should immediately after making an apportionment file with each supervisor, in their respective districts, a statement showing the amount apportioned to each town and the portions which such supervisors should pay to each school district or part of a district.

Filing Certificate of Apportionment.—Upon receipt of the superintendents' certificate of apportionment, supervisors should make a copy thereof for their own use, and each should file the original in the town clerk's office of his town.

Correcting Erroneous Apportionment.—The Commissioner of Education is required to correct any error made by himself or a district superintendent. If a district has not been paid its full share of funds the Commissioner of Education may apportion to such district from the contingent fund any balance to which it is entitled. If a district has been paid too much the Commissioner of Education should deduct from its next apportionment such sum as will properly correct the error made.

Districts Entitled to Share in Apportionment.—No district is entitled to share in the apportionment of school moneys unless the trustees' report for the preceding school year shows that a school was maintained in the district and taught by a qualified teacher for at least 180 days, inclusive of legal holidays, and of attendance upon teachers' conferences — which shall not exceed six days.

Payment of School Moneys to Supervisors.—After the supervisor has given the required bond and the county treasurer has received the school money from the State Treasurer, such money is paid by the county treasurer to the supervisors of his county, who disburse it as required by law. The county treasurer pays direct to city treasurers and to treasurers of union free-school districts having a population of 5,000 or more and to treasurers of town boards of education.

For further information, see chapter on "Supervisors, County Treasurers, etc."

REVIEW QUESTIONS

What is the constitutional provision in relation to certain funds? What prohibition in relation to State aids? Name three sources from which the State has derived revenue for the support of the public school system. What is the Education Fund? When was the Common School Fund created? What led to its creation? How was it created? When was the first distribution made? What was the amount of the revenue of this fund at that time? Upon what basis was it apportioned? What were counties required to do to participate in the distribution of this revenue? For what was the money derived from these two sources used? When this amount was insufficient to pay the salary of teachers, how was the balance raised? What was the capital of this fund in 1805? In 1901? What amount does the Legislature annually appropriate from this fund for common schools?

When was the United States Deposit Fund created? By what body? How was it created? What amount did New York State receive? Was this fund given or loaned to the State? Could this money be recalled? What provision does the State constitution make in relation to this fund? What disposition was made of this money in 1857? What officers have charge of this money? How are they chosen? What do they do with this money? In 1858 what amount from the revenue of this fund was appropriated by the State Legislature? For what period was this amount appropriated? What amount has been appropriated since 1881? How is the amount appropriated now used? What caused the reduction in the revenue from this fund?

What is the Free-School Fund? How is the amount annually appropriated determined? When was this fund created? What amount was appropriated that year? In what year was the increase greatest? Why? What increase was made? What was the evident intent of the Legislature when it made this increase? Does the fund do this? How is the deficiency raised? What was the cost of maintaining the school system of the State in the year ending July 31, 1909? How was this money raised? Explain the origin of Gospel and School lands. How was the revenue derived from this source used? What amount was realized in 1910? How many counties now receive revenue from this fund? Trace the origin and purpose of the literature fund. What constitute the *State school moneys*?

Upon what basis is an apportionment made to cities and villages for supervision? For what purposes must this money be used? What is necessary to entitle a city, village or district to an allowance for a superintendent? What is a supervision quota?

When is an enumeration of the inhabitants necessary? How is the expense of an enumeration paid? Under whose certificate? When does the Commissioner of Education make the apportionment? What are district quotas? What are teachers' quotas? Upon what basis are district quotas apportioned? What entitles a district to a district quota? May legal holidays be included as any part of the 160 days that schools are required to be taught in order to entitle a district to a quota? May Saturdays? May a school be lawfully in session on a legal holiday? Name the legal holidays in this State. When is a district entitled to more than one quota? How many

quotas may a district receive? On what basis are quotas apportioned to cities? What is the basis of apportionment to a consolidated district? What is the amount of a training class quota?

What is the amount of a quota for a school maintained under the industrial education law? What is the basis of apportionment for a director of agriculture? Of physical training? What additional quota is apportioned each city, town or union free-school district for an academic department? What apportionment to a non-sectarian academy? To a city for approved books? What additional apportionment is made to union free-school districts for books? What to other districts? What apportionment is made non-resident tuition? For attendance? For what purpose must school moneys apportioned by the Commissioner of Education be used? What is the penalty for using them otherwise?

For what reasons may a school district be excluded from participating in an apportionment? How may an allowance be made in such cases? If the apportionment has been made, how may the allowance be made? When may the Commissioner of Education withhold the money due a district or city? What portion may be withheld from a town? When? What authority has the Commissioner of Education in cases where a district or town is not entitled to a quota by reason of having employed an unqualified teacher? How may that which has been wrongly apportioned be reclaimed? What disposition is made of such money when recovered? If such money has been expended and cannot be reclaimed, what should be done? What is done with the money thus deducted?

What is the remedy when a school district has not received its just apportionment? What if this fund is insufficient? With what officers should the Commissioner of Education file a certificate of his annual apportionment? What certificate should he file of supplemental apportionments? When does the law provide that school moneys shall be payable? To whom?

When do district superintendents apportion school money? What moneys should they first set apart? How do district superintendents ascertain the amount of unexpended moneys in the hands of supervisors? What is done with this money? Are these moneys returned by supervisors? How are such cases adjusted? How do superintendents ascertain the amount of fines and penalties? How should records of these matters be kept? How should such moneys be apportioned?

What certificate must the superintendents file with the county treasurer and the Commissioner of Education? What statement should a superintendent file with supervisors of the towns of his district? What should supervisors do with such statements? How may an erroneous apportionment be corrected? What school districts are entitled to share in an apportionment? What districts are not? From whom does the county treasurer obtain the school money? To whom does the county treasurer pay it? What does that officer do with it?

CHAPTER XVIII

COURSES OF STUDY, SUBJECTS INCLUDED, ETC.—PHYSIOLOGY AND HYGIENE — HUMANE TREATMENT OF ANIMALS AND BIRDS

[Articles 10 and 11]

Authority to Adopt Courses of Study.—The town board of education is given the authority to establish elementary schools, high schools, vocational, industrial, agricultural and home-making schools or classes, night schools and any other schools or classes necessary to meet the needs and demands of the town. Such board is also authorized to prescribe courses of study for such schools or classes.

The authority to prescribe courses of study in a union free-school district is vested in the board of education of such district.

Subjects That Must be Included in Such Courses.—There is no direct provision of law naming the subjects that shall constitute courses of study prepared by boards of education. The only express provisions of law requiring that any subject shall be taught are those requiring that physiology and hygiene with special reference to the effects of stimulants and narcotics shall be taught in all public schools, physical education and instruction relative to the humane treatment and protection of animals and birds.

The Compulsory Education Law provides that the children who are required by that law to attend upon instruction shall be taught *in English* in the branches of *reading, spelling, writing, arithmetic, English language, and geography.*

The board of education of each union free-school district or town must include in its course of study these subjects and in addition thereto the subject of physiology and hygiene as required by law, and the care and protection of animals and birds; and such subjects must be taught in all public schools.

Other Subjects May be Included.—Boards of education have the authority to include in their course of study other subjects not named in the preceding paragraph. In arranging such courses they

should exercise proper discretion. If trustees abuse the power granted them in this respect and include subjects not practical and not for the best educational interests of the district, an appeal should be taken to the Commissioner of Education, who has the authority to order that such subjects shall not be included in a course of study.

Authority of Teachers.—A teacher has no authority in arranging courses of study and cannot direct what studies shall be pursued. This is a matter resting solely with the board of education.

Boards of education generally refer to teachers the preparation of courses of study.

Authority of Parents.—Parents cannot direct what subjects shall be included in a course of study or what subjects their children shall pursue. When a child is admitted to any public school such child must pursue the course of study prescribed by the legal authorities of such school.

PHYSIOLOGY AND HYGIENE

[Article 26]

Character of Instruction.—The law provides that the *nature* of alcoholic drinks and other narcotics and *their effects* on the human system shall be taught as thoroughly as other subjects are taught in all schools under State control or supported in whole or in part by the public money of the State. Such instruction must also be given in schools connected with reformatory institutions. This instruction must be given in connection with the various divisions of physiology and hygiene.

Who Shall Receive Instruction.—The pupils in all schools described in the preceding paragraph who are *below* the second year of the high school and *above* the third year of school work, counting from the lowest primary, but not including the kindergarten, or who are in corresponding classes in ungraded schools, *must study* and *must be taught* this subject from suitable textbooks. All pupils who come within these provisions must be supplied with suitable textbooks.

All pupils in the three lowest primary school years, not including kindergarten, must receive oral instruction.

Period of Instruction.—The official ruling on the subject has always been as follows:

All pupils above the third year or grade, and below the second year of the high school, must study the subject from suitable textbooks *for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year.* This requires *thirty lessons* during the school year, which may be given at any time in the discretion of the local school authorities. Any plan may be adopted which will complete thirty lessons within the school year.

Where there are nine or more years below the high school, the instruction may be omitted above the eighth year and below the high school.

NOTE.—All pupils in the lowest three primary (not kindergarten) school years shall be instructed in this subject *orally for not less than two lessons a week for ten weeks or the equivalent of the same in each year.* This requires *twenty lessons during each school year*, arranged in the discretion of local school authorities.

Textbooks.—All textbooks used must be graded to the capacities of fourth year, intermediate, grammar, and high school pupils, or to corresponding classes in ungraded schools. For students below the high-school grade, all textbooks must give at least one-fifth their space, and for pupils of the high-school grade, not less than twenty pages, to the “nature and effects of alcoholic drinks and other narcotics.” This subject must be considered in connection with each division of physiology and hygiene. Pages in a separate chapter at the end of a book cannot be considered in determining the minimum pages which a book must contain.

A textbook which does not comply with these provisions cannot legally be used.

Regents' Examinations.—All Regents' examinations in physiology and hygiene must include a proportionate number of questions on the nature of alcoholic drinks and other narcotics and their effects on the human system.

Instruction in Normal School and Training Classes.—All normal schools and training classes in the State must give proper time and attention to the best methods of teaching this subject.

Duty of Teacher.—It is the duty of every teacher to teach this subject as required by law, and the Commissioner of Education, on satisfactory evidence that any teacher has willfully refused to teach the subject, is required to revoke the license of such teacher.

No teacher can receive a certificate to teach who does not pass a satisfactory examination in the subject and the best methods of teaching it.

Apportionment of Public Money.— Before any city can receive any of the public money of the State, the superintendent of schools of such city must file an affidavit with the city treasurer or chamberlain, and a copy thereof with the Commissioner of Education, that he has made an investigation into the facts and that to the best of his knowledge and belief all the provisions of this law have been complied with in the schools under his supervision.

A similar affidavit must be made by the president of the board of education of each union free-school district and of each town and filed with the district superintendents having jurisdiction before the schools under the control of such boards shall be apportioned public money.

Duties of School Officers.— The law directs that local school authorities must provide the necessary facilities and a definite time and place for this branch in the regular courses of study. Under this provision of law the Commissioner of Education has ruled that where school patrons are unable or unwilling to buy necessary textbooks the local authorities may purchase such books at the expense of the district.

Withholding Public Money.— Where it is established to the satisfaction of the Commissioner of Education, upon appeal, that any city or school district has failed to comply with the provisions of this law, he is required to withhold the public money of such city or district until it meets the requirements of the law.

Religious Exercises in Schools.— Religious exercises of any character cannot lawfully be conducted in any public school. No pupil can lawfully be compelled to remain in school during a religious exercise, nor can a pupil be compelled to take part in any religious exercise. No part of the time prescribed for a public school to be in session can lawfully be devoted to religious exercises of any kind. Reading the Bible or repeating a prayer is a religious exercise. These statements are based upon the uniform rulings and decisions of the State Superintendents of New York State, and the Commissioner of Education.

In many cases all the patrons of a school are willing that religious exercises should be held. In any such case, it has been the policy of the Education Department not to interfere in any way with the holding of such exercises.

Where a portion of the patrons of a school desire the observance of religious exercises and pupils assemble in the schoolroom pre-

vious to the regular hour for opening school, and no objection is made by any taxable inhabitant of the district, such exercises may be conducted, provided all pupils are permitted to act their pleasure in regard to attendance thereon, and, provided the exercises are not continued beyond the hour at which the school should regularly convene. Whenever any dissensions would arise from conducting religious exercises on this plan, such exercises should not be held.

Humane Treatment and Protection of Animals and Birds.—1. Boards of education in cities, union free-school districts and towns are required to include in their courses of study provision for instruction in the humane treatment and protection of animals and birds and the important part they play in the economy of nature.

2. The Board of Regents is required to prescribe the period of time which shall be devoted to instruction in such subject each year. Instruction in such subject may be correlated with instruction in literature, reading, language, nature study or ethnology.

3. If the instruction required under this law is not given the public money of the district, city or town may be withheld.

REVIEW QUESTIONS

Who have the authority to adopt courses of study for schools under the town board? For union free-school districts? Does the law provide what subjects shall be taught in common schools? What *one* subject *must* be taught? What subjects does the compulsory education act provide shall be taught to children who are required to attend upon instruction? What subjects, then, must be included in courses of study? In what schools must such subjects be taught? May other subjects be included? What is the remedy if trustees include subjects unreasonable, impracticable, etc.? What authority have teachers in arranging courses of study? What authority have parents? Can parents direct what subjects their children shall pursue in a public school?

In what schools must the subject of physiology and hygiene be taught? What is the provision of law relative to teaching about alcoholic drinks? What pupils must study the subject in graded schools? In ungraded schools? What about kindergarten pupils? What pupils must use textbooks? What pupils must receive oral instruction? What period of instruction from textbooks must each pupil receive? What is the official ruling on this question? What is the ruling relative to oral expression? How must textbooks be graded? What portion of textbooks for pupils below the high school grade must be given to this subject? For pupils above the high school grade? How must matters relating to this subject be distributed in textbooks? What is the law relating to pages on this subject which are put at the end of a book? What are the requirements in relation to Regents' examinations?

What in relation to normal schools and training classes? What is the duty of a teacher in relation to teaching this subject? What is the duty of the Commissioner of Education in case a teacher refuses to teach the subject? What is required of a teacher under this law in order to obtain a certificate? What action must be taken by city authorities before cities can receive any of the State funds? By union free-school authorities? By town authorities? What is the duty of school officers under this law? Under what circumstances may school authorities purchase textbooks? What is the duty of the Commissioner of Education when any city, district or town fails to comply with any of the provisions of this law?

Can religious exercises be lawfully conducted in any public school? Can pupils be required to remain in school during a religious exercise? Can a pupil be compelled to take part in any religious exercise? Can any portion of the time prescribed for public school work be devoted to religious exercises? Is reading the Bible or repeating a prayer a religious exercise?

Under what conditions might religious exercises be conducted in a public school? What provision does the law make in relation to instruction in humane treatment and protection of animals and birds?

CHAPTER XIX

INDUSTRIAL EDUCATION

[Article 22]

Schools Which May be Established.—Under the industrial education law the following schools may be established:

1. General industrial schools. These are also called vocational schools.

2. Trade schools.

3. Schools of agriculture, mechanic arts and home making. Under this class of schools it is intended that special courses in agriculture shall not only be established for boys but that special courses in home making shall be established for girls.

4. Part-time or continuation schools. These schools are to afford instruction in the trades and in industrial, agricultural and home-making subjects for children who are regularly and lawfully employed during a part of the day. It is intended that the school work shall be supplementary to the practical work which the children attending such schools perform in their regular employment.

5. Evening vocational schools. These schools are to afford instruction in the trades and in industrial, agricultural and home-making subjects for children regularly and lawfully employed during the day, and also for all women who are employed in any capacity during the day. The instruction in these schools is to supplement the work which those attending such schools perform during the day.

Where Such Schools May be Established.—Such schools may be established in any city of the State, in any union free-school district, and in any town.

By Whom Established.—In a city any of such schools may be established by the board of education. If a city has no board of education such schools may be established by the officer having the management and supervision of the public school system. Such board or officer may establish as many of each of the different

classes of such schools as the interests of the city require, providing the municipal authorities furnish the necessary funds therefor.

In a union free-school district not under the township law the people must vote upon the establishment of any of such schools at a district meeting. If a meeting authorizes the organization of any of such schools it becomes the duty of the board of education to establish them.

A town board of education may without vote of the people of the town establish one of such schools in a school district in the town where such school will best serve the interests of the entire town.

Who May Attend Such Schools.— Pupils who have completed the elementary school course or those who have not completed such course but who are fourteen years of age may enter general industrial or vocational schools.

Part-time or continuation schools are open to all children over fourteen years of age who are lawfully employed during a part of the day. Evening vocational schools are open to pupils over sixteen years of age legally employed during the day, and to all women employed in any capacity during the day.

Pupils who are sixteen years of age and who have completed either the elementary school course or a course in an industrial or vocational school or have met such other requirements as the local school authorities have prescribed may enter trade schools.

Pupils who have completed the elementary school course or those who are fourteen years of age or those who satisfy such other requirements as the local school authorities prescribe may enter agricultural schools or home making schools.

Authority Over Such Schools.— The board of education in a city or in a city not having a board of education the officer having the management and supervision of the public schools and the board of education in a union free-school district or town have respectively the same power and authority over the management and control of such schools and the teachers and other employees therein as such board or officer has over the other public schools and teachers under their direction. Such boards or officer are particularly charged with the power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase,

acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

4. To purchase necessary machinery, tools, apparatus and supplies.

State Aid.—The amount apportioned by the Commissioner of Education to a city or district for maintaining one of these schools is a sum equal to two-thirds the salary paid the teacher employed, but such sum shall not exceed one thousand dollars. To entitle a district or city to share in State funds it must meet the following requirements:

1. Maintain an independently organized school for a period of at least thirty-six weeks. This does not necessarily mean that such school shall be in a building separate from the regular public school building.

2. There must be an enrollment of at least fifteen pupils.

3. A course of study approved by the Commissioner of Education must be maintained.

4. One teacher must be employed who devotes his time exclusively to the work of such school.

A city or district is also entitled to receive an additional sum of one-third the salary paid to each additional teacher employed who also gives his whole time to the work of such school for a period of thirty-six weeks. When the district makes a contract with a teacher for the entire year and such teacher is employed for that period, the Commissioner of Education shall make an additional apportionment to such city or district of the sum of two hundred dollars, but the total amount apportioned in each year on account of each teacher employed shall not exceed one thousand dollars.

The law explicitly provides that manual training high schools shall not be allowed to participate in this apportionment of funds.

Pro Rata Apportionment.—If a city or district shall maintain a school or employ a teacher for a shorter period than thirty-six weeks the Commissioner of Education may in his discretion apportion to such city or district an amount pro rata to the time such school was in session or such teacher was employed.

Application of State Funds.—All funds apportioned to a city or district for the maintenance of these schools must be used exclusively for the support and maintenance of such schools in such city or district.

Annual Estimates and Appropriations.—The board of education in a city or in a city not having a board of education the officer having the management and supervision of the public schools is required to file a written itemized estimate of the expenditures for the maintenance of any of these schools and the estimated amount the city will receive from the State applicable to the support of these schools. Such estimate must be filed with the common council of the city within thirty days after the commencement of the fiscal year of such city. The common council may give a hearing to any person so desiring and shall then adopt such estimate, after deducting therefrom the estimated amount from the State applicable to the support of such schools. The common council may by a two-thirds vote reduce the amount of an item or reject an item.

The amount of such estimate adopted by the common council shall be levied and assessed by tax upon the taxable property of the city at the time and in the manner that other taxes for school purposes are raised.

The board of education in a union free-school district or of a town which maintains one or more of these schools should include in the estimate of expenses for the ensuing school year which it submits to the annual meeting the amount required to maintain these schools after deducting the amount apportioned to the district for the support of such schools. Such amount must be raised at the same time and in the same manner that other taxes for school purposes in such district are raised.

Advisory Board.—Cities maintaining any of these schools are required to appoint an advisory board. Union free-school districts or towns do not have such advisory board. This board is appointed by the board of education or in a city having no board of education by the officer having the management and supervision of the public schools in such city. Such advisory board shall consist of five members and shall represent the local trades, industries and occupations. When such board is first appointed the terms of two of such members shall be for one year and the terms of three shall be for two years. Thereafter as the terms of such members expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy on such board shall be filled for the remainder of the unexpired term.

The members of this board are to advise and counsel with the

members of the board of education or other officer exercising similar powers in relation to their duties to such schools.

Courses for Training Teachers.—The Commissioner of Education is authorized to approve courses in the State agriculture schools at Alfred university, St. Lawrence university and at Morrisville for the training of teachers in agriculture, mechanic arts, domestic science or home making. When such approved courses are maintained such schools are entitled to receive an apportionment from State funds on the same basis that an apportionment is made to union free-school districts for maintaining an industrial or agricultural school. The Commissioner of Education may prescribe regulations under which the graduates of such approved courses may be licensed to teach like special courses in the public schools.

Smith-Hughes Vocational Law.—This is a law enacted by Congress and provides for federal grants for vocational education in the several States of the Union. One of the main purposes of this act is to bring cooperation between the States of the Union and the nation in the promotion of vocational education. It is proposed that under this law the national government shall appropriate for the year 1917-18 \$1,700,000, to be apportioned among the several States of the Union. On the basis on which it is proposed to make these appropriations the amount appropriated for the year 1925-26 by the United States would be \$7,200,000. These appropriations are made for four specific purposes as follows:

1. Toward the salaries for teachers of agriculture.
2. Toward the salaries for teachers of trade and industrial schools.
3. Toward the training of teachers for vocational work.
4. An annual appropriation of \$200,000 each year for the federal board which is charged with the administration of this work.

The maximum appropriations are to be reached in 1925-26, and thereafter the appropriations will annually be the amount fixed for these years. These amounts are as follows:

For the purpose specified in paragraph	1	—	\$3,000,000
“ “ “ “ “ “	2	—	\$3,000,000
“ “ “ “ “ “	3	—	\$1,000,000
“ “ “ “ “ “	4	—	\$ 200,000

In order that a State may participate in this appropriation of federal funds the Legislature of the State is required to

1. Accept by legislative act the provisions of the federal bill.
2. Accept by legislative act the benefits of all the funds, or of such fund as the State desires to use.
3. Establish a State board of control.
4. Designate the State Treasurer as custodian of the fund.

The Legislature of the State of New York in 1917 enacted a law designating the State Board of Regents as the State board of control to cooperate with the federal board of control, and the Legislature also formally declared in this same law its desire to accept the benefit of all the funds and purposes for which appropriations are made. The State Treasurer, as required under the federal act, was designated as the custodian of the fund.

The federal board has only recently been organized and has just assumed the administration of this important function of public education. No precedents are yet established and no formal rulings of the board have yet been made as to any of the questions which shall come before it.

The work which a State is doing either in the training of teachers or in the courses of instruction which are being given in trade and industrial schools, agricultural schools, and in training teachers for vocational work, must be approved by the national board. The advanced work which the State of New York is now doing in all these lines should be sufficient guarantee that the courses given in the several cities in New York will be approved and the State receive a large benefit from this fund.

Director of Agriculture.—The board of education of a town, union free-school district or city not maintaining a school of agriculture, mechanic arts and home-making may employ a director of agriculture. The boards of education of two or more districts or towns may jointly employ such director and share the expense incurred in the employment of such director. The Commissioner of Education is authorized to prescribe the qualifications of such director.

State Aid.—The Commissioner of Education is authorized to apportion to each union free-school district, town or city which employs a qualified director of agriculture a quota equal to one-half of the salary paid such director, but in no case an amount to exceed six hundred dollars. If the salary paid such director is one thousand dollars, the State quota will be five hundred dollars. If the amount of such salary should be twelve hundred or fifteen hundred

dollars, the State quota will be six hundred dollars. When two or more districts or towns employ such director jointly the State will apportion the amount of the quota to such district or towns in proportion to the amount paid by each toward the salary of such director.

REVIEW QUESTIONS

What schools may be established under the industrial education law? Where may such schools be established? By whom may they be established in a city? What action must be taken to establish them in certain union free-school districts? In other districts? Who may attend general industrial or vocational schools? Trade schools? Schools giving agriculture or domestic economy courses? What general authority has the board of education over such schools? Name four specific duties which the law confers on a board in relation to these schools? What is the amount of State aid apportioned for the maintenance of one of these schools? Name four requirements which a city district or town must satisfy to be entitled to State aid. What amount is allowed by the State for each additional teacher? Illustrate the apportionment of funds. Are manual training high schools allowed to participate in this apportionment of State funds? What pro rata allowance may be apportioned? By whom? How must State funds obtained be used? What estimate must be filed for maintenance of these schools in a city? By whom? With whom? Where? How may this estimate be reduced or an item rejected? How is the amount adopted raised? Explain how an estimate is submitted in a union free-school district and the amount raised. Where are advisory boards appointed? By whom? How many members? What is the full term? How are vacancies filled? What should these members of such board represent? What are their duties? In what institutions may training courses for teachers be established? What courses? Who approves such courses? What certificates may be granted and in what manner? What allotment of State funds made?

What is the federal vocational law? What is its purpose? What amount was appropriated by Congress in 1917? What amount does the bill call for in 1725-26? Name four specific purposes for which this money was appropriated. Name the maximum amount to be appropriated for each of these purposes. Name the four conditions which a State must satisfy to be entitled to share in such funds. What action did the Legislature of New York take in 1917?

Where may a director of agricultural education work be employed? What cooperation is authorized in employing such director? What qualifications must a director possess? What financial aid will the State give?

CHAPTER XX

*TEXTBOOKS, ABROR DAY, FLAG LAW, SAVINGS BANKS

[Article 25]

Adoption of Textbooks.—In a union free-school district having a population of 1,500 or more or employing fifteen teachers or more, and in a city, a board of education, is the proper authority to determine and adopt the textbooks that shall be used in the schools of such district or city.

Change of Textbooks.—After a textbook shall have been regularly adopted for the schools of such a union free-school district or city by the board of education, it is unlawful for such board to supersede the books thus adopted by any other book within a period of five years from the date on which such books were adopted, except by a three-fourths vote of the members of such board.

The township law also modifies the method of adopting textbooks in the schools under the control of a town board of education. The town board of education prescribes the textbooks which shall be used in the schools of the town. A majority vote is sufficient to determine on the adoption of textbooks. A town board cannot change a textbook which has been adopted within a period of five years except by a three-fourths vote of the members of such board.

After a textbook regularly adopted has been in use in a union free-school district or city for five or more years, such book may be superseded by another book, by a majority vote of the members of the board of education having jurisdiction. In a school district under the control of a town board of education, after a textbook, regularly adopted, has been in use for five or more years, it may be superseded by another book, by a two-thirds vote of the legal voters of the town present and voting at any annual school meeting.

Penalty for Violations.—Any person or persons guilty of a violation of the provisions stated in either of the foregoing para-

* See Chapter 653, Laws of 1913, as to special act authorizing uniform textbooks for St. Lawrence County.

graphs, is liable to a fine of not less than \$50 nor more than \$100 for each offence.

Fine, How Collected.—Any tax-payer may sue any person guilty of a violation of these provisions before a justice of the peace. Such fine, when collected, should be paid to the collector or treasurer of the district in which such violation occurred, and used for the benefit of the schools of such district.

Supplying Pupils with Textbooks.—A meeting of a union free-school district may vote an appropriation for supplying indigent pupils with textbooks. When such action is taken by a district meeting, it is the duty of the board of education to provide books for such pupils.

Free Textbooks in Certain Union Free Schools.—A majority of the legal voters of a union free-school district which has a population of 1,500 or more or employs fifteen teachers may decide to supply the pupils of such district with free textbooks. This question may be voted upon at a special meeting regularly called, or at an annual meeting when notice has been duly given that such vote will be taken. The vote must be by the ayes and noes and must be duly recorded. When the voters of a district have decided to furnish pupils free textbooks, the board of education of such district must supply all pupils within ninety days with free textbooks. The board of education has authority to prescribe regulations for the care, use, and distribution of books.

Free Textbooks in Towns.—The question is frequently raised as to whether or not free textbooks may be provided for the schools of the town. A town board of education may submit such question to the voters of the town and if the proposition receives a majority vote it becomes the duty of the town board to provide free textbooks.

Before the enactment of the township system, union free-school districts could vote upon the adoption of free textbooks. Several of these districts authorized free books. It then became the duty of the board of education of such districts to furnish books free to the children of that district. The expense was a charge upon the district. The question is now raised as to whether or not a town board of education having jurisdiction over a union free-school district which authorized free textbooks may continue to provide such books. The township law makes it the duty of the town board of education to perform all duties and obligations which

former trustees or boards of education were required to perform. It is, therefore, the duty of the town-board to provide free textbooks for the children of such districts. The expense incurred is, like all other school expenses, a town charge. It is within the power of a town board of education to submit to the voters of the town the proposition as to whether or not the town shall continue to supply free textbooks for the children of such union free-school districts. Until such action is taken and the previous authorization of free textbooks for such district is revoked, the town board should continue to supply free textbooks in such district. The town board might also submit to the voters of the town the question of extending free textbooks to all the schools of the town. This would appear to be the more logical and just procedure in cases of this kind.

ARBOR DAY

[Article 29]

History.—Arbor Day in New York was created by chapter 196 of the Laws of 1888 and has been observed annually by the public schools of the State from that date. Since the establishment of this day the school children have planted on the school grounds of the State about 200,000 trees and many plants and shrubs.

Arbor Day originated in Nebraska in 1872, and is now observed by every State in the Union.

State Tree.—In 1889 the vote of the school children of the State for a State tree resulted in the sugar maple's receiving a majority of all votes cast. Since that time the sugar maple has been considered the State tree.

State Flower.—In 1890 State Superintendent Draper requested the school children of the State to vote on Arbor Day for a State flower. One hundred and thirty different varieties received votes, and 318,079 votes were cast. The golden-rod received the greatest number of votes cast, 81,308, while the rose received 79,666 votes. As no flower received a majority of the votes cast, and as the vote for the golden-rod and the rose was so evenly divided, Superintendent Draper requested that a vote be taken on these two flowers on Arbor Day in 1891. This vote was taken, with the result that the rose received 294,816 votes and the golden-rod 206,402. The rose is therefore considered our State flower. New York was the

first State in the Union to take action toward the establishment of a State flower.

Best American Nature Poem.—On Arbor Day of 1891 the teachers of the State, in response to a request of the State Superintendent that they express their choice by vote for the best American poem on nature or trees, selected Bryant's Forest Hymn by a majority of 156 votes. Bryant's Thanatopsis was second choice.

Date.—Arbor Day occurred for many years on the Friday following the first day of May. In 1916 the law was amended by providing that the date of Arbor Day should be fixed by proclamation of the Commissioner of Education. In 1917 the Commissioner of Education issued a proclamation fixing the following dates to be observed as Arbor Day: Southeastern part of State, April 20; central and western sections of the State, April 27; northern part of the State, May 4.

Duty of School Authorities.—The law makes it the duty of the school authorities of every public school in the State "to observe this day properly by assembling the pupils in the school building or elsewhere for the purpose of holding, under the general direction of the city superintendent or district superintendent, exercises which shall tend to encourage the planting, protection, and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results."

Program of Exercises.—The Commissioner of Education is required to prepare a program of exercises and instruction for use in the public schools on Arbor Day and to cause the same to be distributed throughout the districts of the State.

Distribution of Program.—It is the duty of district superintendents and city superintendents to provide each of the schools under their supervision with as many copies of the program prepared by the Commissioner of Education as may be available. District superintendents may deposit with each board of education the programs for the schools under the direction of such board, and it is the duty of such board to deliver such programs to the teachers in charge of the schools.

FLAG LAW

[Article 27]

The Legislature of 1895 passed an act making it the duty of the school authorities of each school district and city in the State to supply a United States flag, flag-staff, and other necessary appliances for each of the schoolhouses under their supervision. This flag should be displayed upon or near the schoolhouse during school hours and at any other time when so directed by the school authorities.

In cities and union free-school districts this duty rests with boards of education, and in all other districts with the town board of education. This matter is not left to the discretion of these officers, as the law is mandatory and a failure to comply with its provisions is sufficient cause for removal from office.

If a schoolhouse is not supplied with a flag and the necessary appliances, or if such flag and appliances have been lost or destroyed, the board of education should purchase a flag and pay the expense of the same out of available funds. School authorities may pursue this course without being directed to do so by a district or town meeting.

The Commissioner of Education is required to prepare for the use of the public schools of the State a program providing for a salute of the flag at the opening of each day of school and to provide for such other patriotic exercises as he may deem to be expedient. He is also required to provide for the observance of Lincoln's Birthday, Washington's Birthday, Memorial Day, Flag Day, and other similar legal holidays. To meet this demand an unusually attractive and interesting volume on the history of the flag has been issued and a copy placed in every schoolhouse in the State.

SCHOOL SAVINGS BANK

[Section 160—Banking Law]

General Statement.—The Legislature of 1904 amended the banking law by authorizing school savings banks in the public schools of the State. This action was necessary in view of an opinion of the State Attorney-General, in order to legalize a

growing practice in many schools intended to inculcate principles of thrift and economy at an early period of the child's life.

Who May Collect Money.—The principal of any public school in the State or a superintendent of schools, or any other person designated for that purpose by a board of education, may collect from pupils once a week or from time to time small amounts of savings.

How Deposited.—Such savings shall be deposited on the day collected by the person making such collection in a savings bank of the State. Such deposits must be to the credit of the respective pupils from whom it was collected. If the amount collected at any one time shall be insufficient for the opening of individual accounts, it shall be deposited in the name of the principal or superintendent in trust and to be transferred to the credit of the respective pupils to whom it belongs when the amount is sufficient for that purpose.

Data to be Furnished Bank.—Principals or superintendents must furnish banks in which such deposits are made a list of the names of such depositors, their ages, signatures, addresses, place of birth, parents' names, and any other data required by such banks.

Penalty for Violation of This Law.—For the purposes of this law it is lawful to use the terms "School Savings Banks," or "System of School Savings Banks" in circulars and otherwise, but for a violation thereof a penalty of \$100 is imposed for each offense and for each day such offense is continued.

REVIEW QUESTIONS

By whom are textbooks adopted in union free-school districts having a population of fifteen hundred or more? In a town? A city? What vote is required? How may changes be made in the list of books adopted? By what vote? May a town? How? If a union free-school district adopted free textbooks before it came under the township law are free textbooks continued in such district? Explain. How may they be discontinued? What is the penalty for violation of these provisions? How may such fine be collected? For what should it be used after it is collected? May a union free-school district supply pupils with textbooks? When? How is it done?

When was Arbor Day created? How? Where did the day originate? When? What is considered our State tree? How was it determined? What is considered our State flower? How was it determined? Give the history of the vote on this question? What was the result of the final vote? What has been decided to be the best American poem on nature? How was this decided? Who fixes the date for Arbor Day? How? What is the duty of

school authorities in relation to Arbor Day? Who prepares the program of exercises? How are such programs distributed? How is the expense of carrying out the provisions of the law met?

State the provisions of the flag law of 1895 relative to supplying school districts with a United States flag. When should the flag be displayed? Where? Upon whom does the provisions of the law fall in union free-school districts? In all other districts? Are its provisions left to the discretion of school authorities? What is the penalty for failing to comply with its provisions? If a district has not a flag and appliances, who should purchase one? If a flag and appliances have been destroyed, who should replace them? Is a vote of the district or town necessary in either case? Why are savings banks established in schools? Who may collect savings from pupils? When and by whom must deposits be made? Who must supply data to banks? What is the penalty for violation of law?

CHAPTER XXI

COMPULSORY EDUCATION

[Article 23]

The Act of 1874.—On May 11, 1874, the State legislature passed a Compulsory Education Law, which went into effect January 1, 1875. The burden of enforcing the provisions of this act was placed upon trustees, and penalties for its violation or failure to enforce were not provided. Little attention was given to the measure, and it was never enforced to any extent in any part of the State. After remaining a dead letter upon the statute books for twenty years, the act was superseded by chapter 671 of the Laws of 1894, which was incorporated in the consolidated school law and is now article 23 of the education law. A law taking effect September 1, 1904, provides for the compulsory education of Indian children on the Indian reservations. This law is modeled after the general compulsory education law and is quite similar to it in all respects. For the detailed provisions of this law, see Article 37 of the education law.

Terms Defined.—The terms "*school authorities*" and "*person in parental relation to a child*" occur so often in this measure that a complete knowledge of their meaning is necessary, in order to have a clear understanding of the provisions of this law.

"*School Authorities,*" wherever used in this act, means the trustees or boards of education, or any other officers known by any name whatever whose duties are the same as those of trustees or boards of education of a city, a union free-school district, a common-school district, or any other district created by special act of the State Legislature.

"*Persons in Parental Relation to a Child.*" — This term, wherever used in this act, means those persons who have the lawful care, custody, and control of children. The term includes parents, guardians, or any other persons standing in such capacity, whether one or more.

Who Shall Attend Upon Instruction.—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

(a) Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and eighty days of actual school.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction during the entire time that the schools in the district shall be in session, as follows:

(a) Each child between eight and fourteen years of age.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service.

3. The provisions of this section include blind children, except those receiving appointments under the provisions of Article 38 of the education law.

Attendance Upon Evening Schools.—Every boy, between fourteen and sixteen years of age in a city of the first class or a city of the second class who is in possession of an employment certificate issued under the provisions of the labor law and who does not hold either a certificate of graduation from the public elementary school or a certificate of the completion of an elementary school course issued by the Commissioner of Education, or a Regents' pre-academic certificate, must attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction. Such attendance must be for a period of not less than six hours each week for at least sixteen weeks each year. Attendance upon a trade school for eight hours per week for sixteen weeks in a year will also be accepted.

Where Children May Attend Upon Instruction.—This law does not prescribe that children shall attend *public schools*. It

provides that they shall *attend upon instruction*. Such attendance upon instruction may, therefore, be in a public school, a private school, or at home.

Character of Instruction.—When children attend elsewhere than at a public school, the instruction given must be substantially the same as that given to children of like age in the public schools in the city or district in which such children reside. The number of hours' attendance shall be the same as that required in the public school of the district in which such children reside. No greater allowance for holidays, vacations, etc., shall be made upon such attendance than is allowed in the public schools of the district in which such children reside.

Duty of Parents, Guardians, etc.—The law makes it the duty of every parent, guardian, or other person standing in parental relation to a child or children between the ages of seven and sixteen years, to require such child or children to attend upon instruction as required by law, provided such child or children are in proper physical and mental condition to attend school.

Parent or Guardians Guilty of Misdemeanor, etc.—Any parent, guardian, or other person in parental relation to a child or children, who fails to require them to attend upon instruction as required by law is guilty of a misdemeanor. For the first offense, a fine not exceeding \$5 or imprisonment for five days may be imposed. Each subsequent offense is punishable by a fine not to exceed \$50, or by imprisonment not to exceed thirty days, or by both such fine and imprisonment. No provision having been made by this act as to what should be done with a fine in this case, the same should be disposed of as are other fines imposed and collected by courts as provided in sections 726 and 727 of the code of criminal procedure.

School Record Certificate.—A school record certificate must be issued on demand to a child who upon due investigation and examination may be found to be entitled thereto or to the board, department or commissioner of health. Such certificate must certify that the child has regularly attended the public school or schools equivalent thereto, or parochial schools, for not less than 130 days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application therefor and has completed six years of the elementary course of study. The certificate must also give the date of birth and residence of the

child as shown on the records of the school and the name of the child's parent, guardian or custodian.

No school record certificate shall be issued to any child under fifteen years of age, unless such child at the age of fourteen is a graduate of a public elementary school or parochial school or a school of equal rank maintaining an equivalent course of study and the instruction therein is given in English; or holds a pre-academic certificate issued by the Regents, or a certificate of the completion of an elementary course issued by the State Education Department.

The authority to issue such certificate is as follows:

1. In a city of the first class by a principal or the chief executive officer of a school.
2. In all other cities and in school districts having a population of 5,000 or more and employing a superintendent of schools, by the superintendent of schools only.
3. In all other school districts by the principal teacher of the school.

Evening School Certificate.—A boy who has been in attendance upon an evening school six hours each week for such number of weeks as will when taken in connection with the number of weeks such evening school will be in session during the remainder of the current or calendar year, make up a total attendance of six hours each week for sixteen weeks for such boy, is entitled to an evening school certificate. Attendance upon a trade school for eight hours per week for a period of sixteen weeks shall also entitle a boy to such certificate. Such certificate must be issued by the school authorities or officers designated by them at least once in each month during the months such school is in session and also at the close of the term. The certificate must show the actual attendance of such boy upon the evening or trade school.

Employment Certificate and Evening School Certificate Must be Displayed.—The employer of every child between the ages of fourteen and sixteen in a city or district must keep and must display where such child is employed the employment certificate issued such child by the health authorities and the evening part-time or continuation school certificate issued by the school authorities.

Unlawful Employment of Children.—It is unlawful for any person, firm, or corporation to employ any child under the age

of fourteen years for any purpose any part of the term during which the public schools of the district in which such child resides are in session.

It is also unlawful to employ elsewhere than in a city of the first class or of the second class any child between fourteen and sixteen years of age in a factory, or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, who has not an employment certificate issued under the labor law, or to employ such child in any other capacity who does not at the time of employment present a school record certificate.

It is also unlawful to employ any child between fourteen and sixteen years of age in a city of the first or second class who does not present an employment certificate duly issued under the labor law.

Penalty for Unlawful Employment.—Any person, firm, or corporation or any officer or employee acting therefor who employs any child in violation of the compulsory education law shall be guilty of a misdemeanor and the punishment for the first offense shall be a fine of not less than twenty dollars and not more than fifty dollars; for the second offense and each offense thereafter a fine of not less than fifty dollars and not more than two hundred dollars. This fine shall be paid to the treasurer of the city or village or to the supervisor of the town in which the offense occurs, and must be added to the public school moneys of the city, village, or district in which the offense occurs.

Record of Attendance by Teachers.—The teacher of every public school is required to keep an accurate record of attendance of all children between the ages of seven and sixteen years. This record must show the attendance each day by the year, month, day of the month, and day of the week, and the number of hours thereof each day. Teachers of private schools are also required to keep such record of attendance. A record of attendance upon instruction must also be kept of children who do not attend public or private schools, but who are instructed at home.

These records must at all times be open to the inspection of an attendance officer or other person appointed by the school authorities of the city, district or Commissioner of Education. Teachers must also answer all reasonable inquiries relative to

such records. A willful refusal or neglect to answer any such inquiry is a misdemeanor.

It is important that all records of attendance shall be kept with great care, as in cases taken to the courts the school register will be the principal documentary evidence as to the attendance of pupils.

Attendance Officers.—In each city, and in each union free-school district not under the township law, the board of education of such city or district shall appoint as many attendance officers as such board shall deem necessary for the proper enforcement of the attendance law. Such board may also at any time remove such attendance officers. Boards must also fix the compensation of these officers, define their duties, and establish rules and regulations for their guidance. The supervision and enforcement of this act is placed in the hands of the superintendent of schools in such cities and districts.

The town board of education of each town must also appoint as many attendance officers for its town as, in the judgment of such board, shall be necessary for the proper enforcement of this act. The jurisdiction of such attendance officers extends over all districts under the control of the town board of education. Such board shall fix the compensation of such officers. An attendance officer may be removed by a district superintendent.

If non-resident pupils are tardy or absent, school authorities should report the same to the school and attendance officers of the district in which such non-resident pupils reside. All pupils are subject to the authority of the school officers and attendance officers of the district in which *they reside*.

Arrest of Truants.—Attendance officers have authority to arrest at any time, without warrant, any child between seven and sixteen years of age who is then a truant from instruction upon which such child is lawfully required to attend.

In case any child is thus arrested, the attendance officer must forthwith take such child to his teacher; or in case the child is an habitual truant, the officer must take him before a police magistrate, who may commit him to a truant school or to some similar institution. After each arrest it is the duty of the attendance officer to report the disposition made by him of the

child, to the school authorities of the district where such child was required to attend school.

A truant officer in the performance of his duty has the authority to enter during business hours a factory, mercantile or other establishment and examine the employment certificates and registry of children employed therein.

Truant Schools.—The school authorities of any city, town or union free-school district may establish schools or set apart separate rooms for children who are habitual truants, or who are insubordinate while in attendance, or who are irregular in their attendance; and they may provide for the confinement, maintenance, and instruction of such children in such schools. If the school authorities of any city, town or union free-school district do not establish a truant school, they may make a contract with any other city, town or school district having a truant school, for the confinement, maintenance, and instruction of their truant children.

Commitment.—When the persons in parental relation to a child give their written consent, the school authorities or the superintendent of schools may commit such child to a truant school; or in a private school, an orphans' home, or similar institution controlled by persons of the same religious faith as the persons in parental relation to the child, for a period not to exceed two years. No child can be committed after he is sixteen years of age.

If the persons in parental relation to the child refuse their consent, the child may be proceeded against as a disorderly person, and, upon conviction, must be sentenced to be confined and maintained for the remainder of the current school year either in a truant school or in a private school, an orphans' home, or similar institution.

An habitual truant or a child who, being subject to the compulsory education law, has been lawfully suspended or expelled from school, and is not receiving equivalent instruction elsewhere, is declared to be an ungovernable child. Any such child may be apprehended by a truant officer of the school district or city where the child resides, or by any peace officer, and brought before a police magistrate having jurisdiction. Notice shall thereupon be given to the child's parent, guardian, or other person standing in parental relation to the child, and upon the sub-

mission of satisfactory proof that the child is an habitual truant or that, being subject to the compulsory education law, he has been lawfully suspended or expelled from school and is not receiving instruction elsewhere, the magistrate may commit such child to a truant school maintained by such district or city, or, if no such truant school is maintained, to a private school, orphans' home, or other similar institution if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation.

No person convicted of crimes or misdemeanors other than truancy may be committed to any truant school.

No truant may be committed to a penal institution.

Expenses of Commitment — Where Chargeable.—The city or district employing a superintendent of schools must pay the expense attending the commitment and cost of maintenance of any child committed by them to a truant school.

In all other cases such expense and costs are a county charge.

Industrial Training.—In every truant school established industrial training must be furnished.

Excuses for Absence and Tardiness Required.—The State Commissioner of Education has ruled that the person in parental relation to every child subject to the provisions of the compulsory attendance law may be required to furnish a satisfactory explanation for absence or tardiness, and has held that sickness of the child, sickness in the family requiring the services of the child for a day or two until other help may be obtained, severe storm or impassable roads, contagious disease in the family or the community where child resides, days set apart for religious observance, or death in the family, shall be deemed the only ordinary excuse for such absence or tardiness.

Assistants.—The Commissioner of Education has authority to appoint as many inspectors for the enforcement of this law as he shall deem necessary provided the Legislature has made provision for the payment of their salaries. The attendance division has general charge of this work.

Withholding State Funds.—The Commissioner of Education has authority to withhold one-half of the public school money from any city, town or district which willfully omits or refuses to enforce the provisions of this act. Before this power is exer-

cised, due notice must be given to such city or school district authorities. When such city or district complies, within a period of twelve months after such money was withheld with any provision of law which may not have been enforced, and for non-compliance with which any money has been withheld, the Commissioner of Education shall pay over to the authorities of such city, town or district the amount so withheld.

EMPLOYMENT OF CHILDREN IN STREETS

[Article 3 of the Labor Law]

Authority to Enforce.— The police officers, and the attendance officers appointed by the board of education, in cities of the first and second class are peace officers under this law and are charged with the duty of the enforcement of such law.

Prohibited Employment of Children in Street Trades.— No boy under twelve and no girl under sixteen years of age has a legal right in any city of the first, second or third class to sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place. No boy under fourteen years of age has a legal right to sell or expose or offer for sale such articles unless he has received a permit and badge authorizing him to engage in such employment. No boy having such badge can be employed in such business before six o'clock in the morning or after eight o'clock in the evening.

Issuance of Permit and Badge.— Such permit and badge are issued by the superintendent of schools of the city or school district in which such child resides, or by such other officer of the board of education as such board may designate. The application for such permit and badge must be made by the parent, guardian or other person having the custody of the child desiring it. If the child has no such relative the application must be made by the child's next friend, being an adult. Before an authorized officer issues such badge he must have received, examined and placed on file in his office satisfactory proof that such boy is of the age of twelve years or upwards. He must also have a written statement of the principal or chief executive officer of the school which such boy is attending, that he is an attendant at such school, that he is of the normal development of a boy

of his age and physically fit for such employment and that he approves of the granting of such permit and badge to such boy.

List of Boys Receiving Permit and Badge.—Principals and chief executive officers of schools must keep a complete list of all children in their schools to whom a permit and badge have been issued.

Contents of Permit and Badge.—The permit must show the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend as the case may be. It must describe the color of hair and eyes, the height and weight, and any distinguishing facial mark of the boy receiving it. It must also state that the preliminary papers requisite to its issuance have been duly examined and filed and that the boy named in such permit has appeared before the officer who issued it. The badge shall bear on its face a number corresponding to the number of the permit and the name of the child. The boy must write his name on the reverse side of the permit and badge in the presence of the officer issuing it.

Regulations Concerning Badge and Permit.—The badge must be worn conspicuously at all times by the boy while so working and he shall exhibit the same upon demand at any time to any police or attendance officer. No badge or permit may be transferred. All permits and badges expire annually upon the first day of January. The color of the badge must be changed each year. No permit or badge is valid except during the period in which the proof and written statement requisite to its issuance shall remain on file nor are they authority beyond the period fixed therein for their duration.

Conditions Under which the Compulsory Attendance Law May be Suspended.—Governor Whitman approved on May 29, 1917, the bill known as the Senator E. R. Brown bill, authorizing the suspension of the provisions of the compulsory attendance law under certain conditions, for the purpose of permitting children, coming within the compulsory school ages, *to be employed in the cultivation, production and care of food products upon farms and gardens within the State.* On the approval of the Governor, this bill became Chapter 689 of the Laws of 1917. Sections 1 and 2 of this act are the sections which treat of the suspension of the compulsory attendance law, and the essential provisions of such law are as follows:

1. The compulsory attendance law may be suspended between the *first day of April and the first day of November but at no other time during the year*. It may be suspended during this period in the discretion only of the Commissioner of Education. School authorities of the various cities and districts of the State may not suspend the operation of the law. Parents have not the authority to determine that they may take their children from school for the purposes of the act authorizing a suspension of the compulsory attendance law.

2. The Commissioner of Education may exercise his discretion in suspending the compulsory attendance law for the *sole purpose* of permitting children, coming within the compulsory school ages, *to labor in the cultivation, production and care of food products upon farms and gardens within the State*. Children within the compulsory school ages may not, while school is in session, be excused therefrom for the purpose of performing any other kind of labor. No provision of the labor law is repealed, suspended or modified under the provisions of this act and the provisions of the labor law prohibiting the employment of children in canneries or cannery sheds or in any factory or mercantile establishment are still in force. Children within the compulsory school ages may not be employed contrary to the provisions of the labor law. The Commissioner of Education has not the discretionary power, under this statute, to authorize the employment of children for the above purposes which are prohibited under the labor law.

3. It must be specifically understood that there is no general suspension of the compulsory education law and all children must be in attendance upon school as required under such law unless they are specifically excused in conformity with the regulations herein prescribed.

4. This statute makes it the duty of the Commissioner of Education to prescribe rules and regulations under which the provisions of the compulsory attendance law may be suspended for the purpose of permitting children to be employed in the work authorized by this statute. The law further provides that the suspension of the compulsory attendance law shall be subject to "such conditions, restrictions and limitations as may be imposed by the Commissioner of Education."

5. This statute also specifically provides that in case the Commissioner of Education does authorize the suspension of the com-

pulsory attendance law, provision shall be made for the welfare and protection of the children thus employed and that, *during the period of such suspension and while engaged in such work*, these children shall be under the supervision and direction of the school authorities of the city or district in which such children reside. The school authorities of each city and school district will be held to a strict accountability in the proper discharge of this obligation. School trustees, boards of education and district superintendents having jurisdiction of schools in the territory where children are employed under the provisions of this law will be directed by the Commissioner of Education to cooperate with the school authorities of the cities and districts in which such children's homes are located in affording such children the protection and supervision contemplated under the provisions of this statute.

For the proper guidance of parents and school officers and for the proper and intended administration of this statute, the following regulations are hereby prescribed:

1. *Children within compulsory school ages who may be employed when school is in session:*
 - a Boys only, fifteen years of age and above, residing in cities.
 - b Boys only, fourteen years of age and above, residing elsewhere than in a city.
 - c Girls fourteen years of age and above may work at home only in the district in which such girls reside, or at a place sufficiently near such girls' homes as to afford supervision by their parents.
2. *Issuance of farm garden permit:*
 - a No child shall be employed or permitted to work on farms and gardens until such child shall obtain a farm-garden permit granted as hereinafter provided.
 - b Farm-garden permits shall be granted in cities, by the board of education or a person designated by said board; in a union free-school district by the board of education of said district, and in towns after August 1st by the town board of education. Boards of education under the township law assume their duties August 1st. Until that date farm-garden permits in rural schools may be issued by school trustees.

- c Before a farm-garden permit may be issued, the issuing officer shall require due proof that the child applying for such permit is of the required age, and the age of applicant as recorded in the school register kept on file at the school where such applicant last attended may be regarded as due proof of age.
- d The farm-garden permit shall give the following information:
 1. The name of the employer.
 2. Probable period for which permit is issued.
 3. The name, age and place of residence of the child.
- e No child shall receive a farm-garden permit who does not present to the issuing officer the written consent of his parent or guardian and who is not found to be physically competent to perform the labor proposed.
- f Boards of education in cities and villages having a population of five thousand or more shall employ duly licensed physicians to determine the physical competency of children applying for farm-garden permits.
- g The following form of farm-garden permit shall be used:

FARM-GARDEN PERMIT

Issued pursuant to Chapter 689 of the Laws of 1917.

The Board of Education of.....upon
(city, town or village)
 application duly made pursuant to law, grants this permit to
for the employment of.....
(name of employer) (name of child)
 residing at for the cultivation, production and
(child's address)
 care of food products upon the farm or garden located at
 for the period of
(probable date of employment)
 and it is hereby certified that the child named above, personally
 appeared before the undersigned official and was by him examined
 and found qualified for farm-garden employment.

DESCRIPTION OF CHILD

Place of birth.....Date of birth.....

THE BOARD OF EDUCATION.

..... By
(signature of child) (signature of issuing official)Address of
Board of Education.....

The employment of the above-named child as described herein has my consent and approval.

..... Date
(signature of parent)

N. B. This permit must be filed with the employer, at the place of employment during the period of such employment. It must be returned by mail to the issuing officer upon the termination of the child's employment.

TERMINATION NOTICE

The undersigned gives notice that
(name of child)
has ceased working on his farm or garden, and he returns herewith the permit of said child.

.....
(signature of employer)
.....
(Date)

3. *Reports to State Education Department:*

- a The officer issuing farm-garden permits as herein provided shall make a semi-monthly report to the State Education Department, giving the names and residences of the employers and place of employment of each child to whom a farm-garden permit shall have been issued.
 - b The board of education shall make a semi-monthly report to the State Education Department, showing in detail the supervision which has been exercised over children to whom farm-garden permits shall have been issued.
4. The period of employment of children as herein provided shall be between May 1 and November 1, 1917.
 5. Employers of children on farms and gardens, under this act, shall provide suitable and sanitary living quarters for such children, and sufficient, ample food, of proper quality and variety for such children, while thus employed.

6. Children employed on farms and gardens shall, while so employed, be under supervision of proper persons appointed by school authorities having jurisdiction in the city or district in which such children reside, and such supervision shall include:
 - a. Weekly reports from child to permit-issuing officer.
 - b. Local inspection at least semi-monthly.
 - c. State inspection at least monthly.
7. Moneys necessary for the purpose of providing for the supervision, inspection, protection and welfare of children employed shall be furnished by school authorities, as provided in the act.
8. Children of compulsory school age, as herein provided, may be exempt from school attendance while engaged in work on farms and gardens during the period between May 1 and November 1, 1917, or such portion thereof as the Commissioner of Education may hereafter prescribe.
9. *Revocation of farm-garden permit:*
Any farm-garden permit may be revoked by the issuing officer for violation of its conditions. Such permit may also be revoked for like purpose by the Commissioner of Education.

REVIEW QUESTIONS

When was the present compulsory attendance law enacted? What compulsory act preceded this? Why was it not enforced? Define "school authorities," "persons in parental relation to a child."

Into how many classes in respect to age may children be arranged who are required to attend upon instruction? Define each class. Why is the term "attend upon instruction" used instead of "attend school?" What period of instruction is required of each class? What must be the character of the attendance? When must children between 14 and 16 years of age attend upon instruction? Must the attendance be at a public school? Where may it be? Where children are instructed elsewhere than at a public school, what must be the character of such instruction? The daily period of instruction? What about allowance of holidays, etc.?

What is the duty of persons in parental authority? When is a parent or guardian guilty of a misdemeanor? What is the penalty for the first offense? Each subsequent offense? When fines are collected to whom should they be paid? What must a school record certificate show? By whom is it issued? When is a boy entitled to an evening school certificate? By whom are such certificates issued? How must such certificate be displaced? When is it unlawful to employ children under 14 years of age? By whom must a certificate of attendance be signed? What is the penalty for unlawful employment of children? What disposition is made of a fine thus collected?

What record of attendance must teachers keep? What must such record show? Are the teachers of private schools and those employed in homes of children required to keep such record? To whom should this record be open to inspection? What is the penalty imposed upon teachers who refuse to answer reasonable inquiries relative to such records?

For what school districts do the school authorities appoint attendance officers? How many may they appoint? Who determines the compensation of such officers? By whom may they be removed? Who is charged with the duty of enforcing the law in such districts or cities?

For what territory may town boards of education appoint attendance officers? How many? Who fixes their compensation? What is their jurisdiction? Who may remove these officers from office? What authority have attendance officers to arrest truants? When a truant is arrested what must the officer do with such truant? After such arrest what report must the attendance officer make? To whom? How may truant schools be established? What three classes of pupils may be confined in such schools? What power have school authorities to contract for the confinement and maintenance of truants? With the written consent of the parents or guardian, where may a truant be committed? When the person in parental authority refuses to consent, what action should be taken? What persons cannot be committed to truant schools? When is the expense of such commitment a city or village charge? When a county charge? What instruction must be given in all truant schools?

What is the ruling of the Commissioner of Education as to what constitutes a satisfactory excuse for absence or tardiness? What help may the Commissioner of Education employ to assist in enforcing this law? When may the Commissioner of Education withhold public money from a district? What portion may be withheld? What action must be taken first? When must the Commissioner of Education pay over moneys thus withheld?

Who are charged with the duty of enforcing the law relative to employment of newsboys? What are the prohibitive ages of employment? On what conditions may a boy between 10 and 14 years of age be employed? Between what hours can he not be employed? By whom are permits and badges issued? By whom must the application be made? What written statement must be first obtained? Who is required to keep a list of boys receiving them? State fully contents which permit must contain. Badge? For what time are permit and badge valid? On what date do they expire? State fully the other regulations concerning them.

For what purpose only may the compulsory education law be suspended? When may it be suspended? What is the general purpose? Who may suspend it? Who may not suspend it? Are any of the provisions of the labor law repealed? State the three classes of children, giving ages and sex, who may be excused from the provisions of the compulsory attendance law? What is a garden permit? By whom issued? What must it contain? How is it issued? What reports are required? What supervision of those employed is required? When may such permit be revoked?

CHAPTER XXII

SCHOOL CENSUS

[Article 24]

Bureau in New York City.—The Board of Education of New York City is required to establish a Bureau of Compulsory Education, School Census, and Child Welfare. Such board is also authorized to prescribe by-laws, rules, and regulations for the proper operation and administration of such bureau. The board of superintendents is required to nominate a director and assistant director of such bureau to the board of education, and such board has the power to appoint these officers. Attendance officers, enumerators, clerks and other employees necessary for the administration of the work of such bureau are chosen in the same manner. The term of office of the director and assistant director is six years each. No person is eligible to either of these positions who is not a graduate of an approved college or university, and who has also had five years' experience in teaching or in supervisory work since graduation. A person who holds a principal's license for any bureau of the city of New York obtained upon examination, and who has also had ten years' experience in teaching or supervisory work is also eligible.

Under the direction of this bureau the attendance officers and enumerators appointed by the board are required to take a census of all the children between the ages of four and eighteen years of age residing within the boundaries of the city. This bureau is required to amend such census from day to day so that at all times there shall be kept on file in the bureau a complete, up-to-date census of the names and residences of such children.

The general direction and supervision of the school census bureau is under the city superintendent of schools, and the bureau is so organized that the director of the bureau is charged with the administration of the compulsory attendance law and the assistant director of the bureau with the administration of the census law.

Census Board in Buffalo and Rochester.—The mayor, the superintendent of schools and the police commissioner, or the officer performing the duties similar to those of a police commissioner, constitute a permanent census board in the cities of Buffalo and Rochester.

Officers of Such Board.—The mayor is the chairman of such board. The board also has the power to appoint a secretary and such clerks and other employees as may be necessary and to fix their salaries.

Census Required.—The census board is required to prescribe regulations to make effective the census law and under such regulations the police commissioners were required to cause a census to be taken in their respective cities during the month of October, 1909. The census boards are required to obtain through the police force the residences and employments of all persons between the ages of four and eighteen years and to report thereon from time to time to the school authorities of their respective cities. After the census of October, 1909, was taken it became the duty of the census board to cause the same to be amended from day to day. It is the duty of the police to report daily, precinct by precinct, changes of residence which occur among the children between the ages of four and eighteen. The police should likewise report daily the names and addresses of all children between such ages who move into the city. The census board should therefore always have on file in its office a complete list of the names, addresses, occupations and persons in parental relation, of all persons between the ages of four and eighteen. While the law makes it the duty of the police to make daily reports and to take the permanent census required under the law, the census board may employ such enumerators or other help as may be necessary to carry into effect the provisions of the law. It should also be understood that while parents are required to report certain data to the police a failure on the part of parents to make such report does not relieve the police or the census board from obtaining this data. The burden of the enforcement of this law is placed primarily upon the census board, and also upon the police, and this board and the police must obtain all information necessary to keep the census properly revised from day to day.

Parents Required to Report.—A person in parental relation

to a child is required to report at the police station house of the precinct in which he resides the following:

1. The name of each child, its residence, the name of the person in parental relation thereto and the name and location of the school such child is to attend at least two weeks before such child becomes of the compulsory school age.

2. The facts relating to the removal of a child of compulsory school age from one school to another, for any cause whatever, and of a child going to work in accordance with the provisions of the labor law.

3. The change of residence of a child from one police precinct to another and such other facts relating to such child as required by the two previous subdivisions.

4. The residence of a child between four and eighteen who moves into such city and such other facts relating thereto as the census board may require.

Census in Cities of the Second and Third Class.—Under an amendment to the census law by the Legislature of 1917 the school authorities of cities of the second and third class are no longer required to take a census of the children of the city every four years. This amendment to the education law provides that the board of education of each city of the second class and of the third class shall constitute a permanent census board. This board is required to take a census of all children between the ages of four and eighteen years of age in its city. This census must be amended from day to day so that there shall always be on file in the office of said board of education a complete, up-to-date census, including all the census information required of cities of the first class and such additional information as the board of education may require under its regulations. The board of education of these cities becomes a permanent census board and is required to establish a census bureau. The board must appoint such directors, clerks, enumerators, attendance officers, etc., as may be necessary to keep an up-to-date census as required under the law.

School Census in School Districts.—The board of education of every union free-school district and of every town is required to take a census annually on the thirtieth day of August, of all children between the ages of five and eighteen years. The information required is the same as that required of cities.

Withhold Information or Giving False Information.—A parent, guardian, or other person having the control of a child between the ages of four and eighteen years who withholds or refuses to give information in relation to such child as required under the census law, or a parent, guardian or other person in custody of a child who gives false information in relation thereto is liable to a fine not to exceed twenty dollars and imprisonment not to exceed thirty days.

Expenses of Census.—The expense involved in taking a census required under this law is a charge upon the city, town or school district for which it is taken. It is the duty of municipal authorities to appropriate or set apart sufficient funds for this work. The census board in a city should file annually with the proper municipal authorities an estimate of the amount required for such work. A board of education should include in its annual budget a sufficient amount for this purpose.

REVIEW QUESTIONS

How is the census board for New York City organized? Who are eligible to the office of director or assistant director? What are their terms of office? What powers has the bureau? State fully the powers and duties of the bureau for New York City. Who constitute a census board for Buffalo and for Rochester? Who is chairman of the census board? What other officers does such board have? How are such officers chosen? Who fixes their salaries? What regulations may such board prescribe? In what year was a complete census to be taken? What officer was charged with this duty? What information is the census board required to obtain? Through what officers is this information obtained? To whom must the census board make reports? Explain how the census of 1909 is to be amended. What is the duty of the police in this respect? What should the census office always contain? Must the census board rely solely upon the police to do the work required? If parents fail to perform their duty, what is the duty of the census board?

To whom must parents make reports? State the four points upon which they must report. How is the board constituted? What are the powers and duties of such board?

Who are required to take a census in union free-school districts? In towns? How often? On what date? What information must be obtained? What penalty is prescribed for refusing to give or withholding any information required, or for giving false information? Who pays the expenses incurred in taking this census? How are the funds obtained in a city? In a school district?

CHAPTER XXIII

MEDICAL INSPECTION, VACCINATION, PHYSICAL TRAINING, MILITARY INSTRUCTION

[Article 28]

MEDICAL INSPECTION

General.—The Legislature of 1913 enacted a medical inspection law, which applies to each school district and city of the State, except cities of the first class.

Under the terms of this act, the power to superintend and direct the medical inspection in public schools is the school authorities. The health authorities no longer possess jurisdiction in relation to this subject. The law is mandatory, and makes it the duty of boards of education and school boards to appoint necessary medical inspectors and nurses, and to see that this law is properly enforced.

Medical Inspectors.—Persons appointed medical inspectors under this law must be physicians, licensed to practice in the State, and who have had at least two years such practice. A medical inspector must be a resident of the city for which he is appointed. A medical inspector for a union free-school district or town outside a city is not required to be a resident of such district.

The nurses authorized under this law must be registered nurses, and licensed to practice as such.

The law requires the board of education of each city to appoint at least one medical inspector, and such additional inspectors as may be necessary for the proper enforcement of the law. Such board may also appoint as many school nurses as may be necessary.

In a union free-school district the board is required to appoint one medical inspector. If such district has a population which exceeds 5,000, the board may appoint as many additional inspectors as are necessary to perform the work. The board may

also appoint such number of nurses as may be necessary to do proper follow-up work and otherwise supplement the work of the medical inspector.

The township law of 1917 modifies the requirements of the medical inspection law by conferring upon a town board of education the authority to appoint such medical inspectors and nurses as may be necessary to properly enforce the provisions of the medical inspection statutes. Medical inspectors must be practicing physicians of at least two years' experience, and the nurses appointed under this law must be registered nurses. There is no provision of law requiring a specific number of medical inspectors in a town. It is held by the Commissioner of Education that registered nurses may make physical examinations, do the follow-up work and perform other functions required under the medical inspection act. The greater portion of the work required under the medical inspection law may be properly and efficiently performed by a nurse. The complicated cases should be referred to a physician for consideration as a medical inspector.

Health Certificate.— When school opens, or within thirty days thereafter, each pupil may present a health certificate issued by a physician of the parents' selection. If such certificate is not presented within this time, the principal teacher should notify the parents of those pupils who have failed to present such certificate that if a certificate is not furnished within an additional thirty days, at the expiration of such period an examination of the pupils will be made by the medical inspector.

If a pupil fails to present the health certificate within this time, the medical inspector should then make an examination of the pupil.

This health certificate must be issued by a physician licensed to practice medicine in this State, and on an examination made by such physician not more than thirty days prior to the date when the certificate is presented at school.

These certificates should be retained in the school building until the close of school at the end of the school year, and should then be filed with the district clerk. In cities such certificates should be filed with the Superintendent of Schools.

The expense of the examination of a pupil when made by the family physician must be paid by the parent, and may not be made a charge against the city or district. When the examination is made by the medical inspector, no charge may be made against the parent.

The law provides that a parent may waive his rights to furnish a health certificate, and in such case the medical inspector having jurisdiction may make the required examination without waiting the sixty days required under the law.

Eye and Ear Tests.—The school authorities are required to make a test of the eyes and ears of each pupil at least once a year. These tests should be made under the general guidance of the medical inspectors and nurses, but teachers may be called upon to assist.

Pupils who present health certificates are not exempt from these tests by the school authorities.

When an examination of the eyes or ears of a pupil discloses a defect in these organs, such additional tests should be made from time to time as the pupil's condition may require.

Medical Treatment for Children.—When an examination of a child by a medical inspector reveals a defect or disability which is an impediment to the normal or physical development of such child, the principal, or teacher, of the school should notify the parent of this defect or disability. It is then the duty of the parent to provide the relief or treatment which the child should receive.

If the parent fails to provide such relief or treatment, or if he is not financially able to supply such relief or treatment, it then becomes the duty of the school authorities to provide the relief or treatment at the expense of the city or district. School authorities should insist in every case that a parent, if possible, shall provide such treatment as his child requires. The school authorities should know in every case where assistance is given that the parent is positively unable to meet the expense himself.

A medical inspector should not incur any expense in providing medical relief or treatment for a child, until an appropriation for such expense has been duly authorized by the school authorities of the city or district. These authorities may provide for meeting this expense from the contingent fund, or any general funds which have not been authorized for a specific purpose.

A medical inspector cannot furnish pupils relief or treatment, and receive compensation therefor, and a medical inspector should not refer children needing relief or treatment to any particular physician, but parents should always be advised to take their children to their family physicians for such treatment as may be needed.

Exclusion of Pupils from School.—Whenever a pupil in a public school shows symptoms of smallpox, scarlet fever, measles, chickenpox, tuberculosis, diphtheria, influenza, tonsillitis, whooping-cough, mumps, scabies, trachoma, or other communicable disease he must be excluded from the school.

The school authorities should immediately take such pupil to his home in a safe and proper conveyance, and should immediately notify the health officer.

A pupil who has been absent from school because of illness, or for unknown cause, may not be admitted to school again until he presents a certificate from the health officer, family physician, or the medical inspector.

Teachers, Janitors and School Buildings.—The law requires the medical inspectors to examine all teachers and janitors employed in the public schools.

It further provides that such inspectors shall examine all school buildings.

Teachers and janitors may present a health certificate, in which case they are exempt from the examination by the medical inspector.

Penalty.—The law makes it the duty of the Commissioner of Education to enforce the provisions of the medical inspection law, and he may, in his discretion, withhold public money from a district, town or city which wilfully refuses or neglects to enforce this law.

VACCINATION

[Chapter 49, Public Health Law, as amended by Laws of 1915,
Chapter 133]

The Court of Appeals, in a decision recently rendered, declared that part of the public health law relating to the vaccination of children constitutional. This law applies to cities as well as school districts.

The Supreme Court of the United States also held that the Massachusetts law, which is similar to the New York law, was not an infraction of the United States Constitution. Opinion by Justice Harlan, February 20, 1905.

Unvaccinated Children Not Entitled to Attend School in Cities of the First or Second Class.—No child or person who has not been vaccinated shall be admitted or received into any public school in a city of the first or second class. School authorities are required

to enforce this provision of the law. While the enforcement of the law is under the supervision of the school authorities it is incumbent upon the health authorities to provide, at the expense of the city, for vaccination of all pupils in attendance upon the schools whose parents or guardians do not provide vaccination.

Enforcement of Vaccination Law in Cities of the Third Class and in School Districts.—Vaccination is not to be enforced against school children in cities of third class or in school districts, unless the State Commissioner of Health certifies in writing to the school authorities in charge of any school in such territory that smallpox exists in such city or district, or in the vicinity thereof. When the Commissioner of Health issues such certificate it is the duty of the school authorities to exclude from school all children who do not furnish a certificate to the effect that they have been successfully vaccinated with vaccine virus or that an examination of the child furnishes evidence by scar of a successful previous vaccination. The enforcement of this law is placed upon the school authorities. It is the duty of the local board of health, however, when school authorities are enforcing this law, to provide for the vaccination of all children whose parents or guardians do not provide such vaccination.

Expense of Vaccination.—The expense incurred in the vaccination of pupils under health authorities is a charge upon the municipality in which the child or person vaccinated resides.

Method of Vaccination.—Only licensed physicians may perform vaccination, and the operation must be in such manner only as the State Commissioner of Health prescribes.

Certified Vaccine Virus.—A physician is prohibited from using vaccine virus unless the same is produced under a license issued by the Secretary of the Treasury of the United States and is accompanied by a certificate of approval of the State Commissioner of Health. The approval of the Commissioner of Health will specify the period of time within which such vaccine virus may be used. It may not legally be used after that period.

Report of Vaccination.—The Commissioner of Health is required to prepare blank forms on which every physician performing vaccination shall make a report to the Commissioner within ten days after performing such vaccination. This certificate must include the full name and age of the person vaccinated; if the person vaccinated is a minor, the name and address of his parent; date of

vaccination; date of previous vaccination; name of maker of vaccine virus, and lot or batch number of same.

PHYSICAL TRAINING

General Provisions.—The Legislature of 1916 enacted a physical training law requiring that all children in attendance on the elementary and secondary schools above the age of eight years shall receive as a part of the prescribed course of instruction such physical training as the Regents of the University shall require. This instruction must cover a period of at least twenty minutes in each school day. The Regents are given general power to prescribe regulations to govern the course of study, the qualifications of teachers, and for carrying out the recommendations of the military training commission which the Regents may adopt. Under the military training law enacted by the same Legislature, a military training commission is established which is given advisory powers in connection with the physical training given in the schools. The full responsibility for the enforcement of the physical training law, however, is vested in the Board of Regents.

Powers of Boards of Education.—The board of education of each city, union free-school district and town is required under the provisions of this law to employ a competent teacher to supervise instruction in physical training when there are sufficient pupils in the schools for this purpose. The law further confers upon boards of education of two or more districts, or towns, the power to jointly employ a teacher for this purpose. Such boards must employ a teacher when so directed by the Commissioner of Education. The physical training law was enacted before the enactment of the township law. It was not possible for a trustee in thousands of the one-teacher schools to employ a teacher of physical training for the pupils in his district. Under these conditions it was necessary for the trustees of two or more districts to unite in employing such teacher. The township law corrects this situation by uniting several schools under one board of control and this board now has the power to employ one physical instructor for all the schools of the town. The boards of two or more towns may also unite in making a contract with a teacher.

Private Schools.—The provisions of this law apply to private schools as well as to public schools, and all pupils over eight years of

age in attendance on private schools must receive the same instruction in physical training that pupils receive in the public schools. If such instruction is not provided in private schools, children in attendance on such schools are not to be deemed as receiving instruction, under the compulsory education law, as substantially the equivalent of the instruction given in public schools.

State Aid.—The State is required to apportion to each district, town or city employing a teacher of physical training an amount equal to one-half the salary paid such teacher, provided that in no case shall the amount exceed \$600.

Teachers.—No teacher may be employed to give instruction in physical training or to supervise such instruction who is not certified under the rules of the Regents.

MILITARY INSTRUCTION

Military Training Commission.—This commission, under the military training law of 1916, is composed of the Major-General of the National Guard, who is chairman of the commission, a member to be appointed by the Regents of the University, and a member to be appointed by the Governor. The appointed members are to serve four years. The members of this commission receive no compensation but are reimbursed for traveling expenses.

Inspector of Physical Training.—The military training commission is authorized to appoint an inspector of physical training, whose salary shall not exceed \$5,000 per year, and such other assistants and clerks as are necessary at salaries to be fixed by the commission. This man is expected to advise and confer with the Regents of the University on courses of instruction in physical training to be prescribed in the elementary and secondary schools. The commission is required to recommend to the Board of Regents the establishment in the elementary and secondary schools of "habits, customs and methods best adapted to develop correct physical posture and bearing, mental and physical alertness, self-control, disciplined initiative, sense of duty and the spirit of co-operation under leadership."

Who Shall Receive Training.—1. This law does not apply to any agricultural college or any institution in this State which receives the benefits of the act of congress of July 2nd, 1862, providing for instruction in agriculture, the mechanic arts, and military

training, and in which instruction in military tactics is now required of pupils.

2. Under the provisions of this law all boys above the age of sixteen and not over nineteen years, except boys exempted by the commission, are required to receive the military training prescribed by the commission.

Such requirement as to military training may in the discretion of the commission be met in part by such vocational training or vocational experience as will, in the opinion of the commission, specifically prepare boys of the ages named for service useful to the state, in the maintenance of defense, in the promotion of public safety, in the conservation and development of the State's resources, or in the construction and maintenance of public improvements.

Period of Training.—The period of training required under this measure is not more than three hours in each week, between September first of each year and the fifteenth day of June next ensuing. Such training periods, in the case of pupils in schools and colleges, shall be in addition to prescribed periods of other instruction therein and outside the time assigned therefor.

Who May Give Such Instruction.—The instruction required under this law must be under the supervision of the military training commission. Only male teachers and physical instructors of schools and colleges who are approved by the military training commission, or officers and enlisted men in the National Guard and Naval Militia or the United States Army, may be employed as instructors.

Field Training.—The law further provides for field training for boys above the age of sixteen and not over nineteen years. For the purpose of providing this field training summer camps may be established and maintained. This training must be given during the summer months and must cover a period of not less than two or more than four weeks, as the commission may determine. No boy is entitled to enter one of these camps who is not accepted by the commission. The commission is required to give preference to boys in the following order:

1. Male pupils in attendance on the secondary schools during the preceding year;
2. Pupils in attendance at State agricultural schools and State agricultural colleges during the preceding year;
3. Other boys not included in the above.

State and Other Property for Use of Camps.— It is required under the law that fair grounds throughout the State owned by societies which receive funds from the State shall be used for camps, on the request of the training commission, when such grounds are not in use for other purposes. If a society refuses to permit the use of its grounds for this purpose, the funds to which the society is entitled from the State shall be withheld.

School authorities are also authorized to permit the use of school buildings and school grounds for the purposes of carrying out the provisions relating to military training.

REVIEW QUESTIONS

When was the medical law enacted? To what sections of the State does it apply? Who are charged with its enforcement? Who have no responsibilities in its enforcement? Is the law mandatory? What are the qualifications of a medical inspector? Must such inspector be a resident of the city in which he is employed? A union free-school district or town? What qualifications must a nurse possess? What number of inspectors must be employed in each city? How many nurses? How many inspectors in a union free-school district? How many nurses? What is the requirement in relation to appointment of medical inspectors in a town? Nurses? What ruling has been made in relation to nurses making a physical examination of pupils?

When must pupils present a health certificate? What notice is required? When may a medical inspector examine a pupil? By whom is a health certificate issued? What should be done with such certificate? When must a parent meet the expense of an examination of his child? When not? May a parent waive his right to furnish a health certificate? What follows? How often must the eyes and ears of a pupil be tested? By whom are such tests made? Who may assist? Does the presentation of a health certificate exempt a pupil from a test of eyes and ears? When should additional tests of these organs be made? When important physical defects are discovered, what action should school authorities take? What is then the duty of parents. When should school authorities provide relief for defects of children? What precaution should be taken? Has a medical inspector authority to incur expenses in such matters? When may he? May a medical inspector receive compensation from parents of children for the treatment of such children? What advice should a medical inspector give children or their parents about consulting physicians?

When should a pupil be excluded from school? When a pupil is affected with a contagious or infectious disease, what should be done with such pupil? How may a pupil who has been absent from school by illness be admitted to school again? What is the law in regard to the examination of teachers, janitors, etc.

State the provisions of the vaccination law as it applies to cities of the first

class. To cities of all other classes and school districts. Who is required to enforce the vaccination law? In cities of the first class, who meets the expense of children vaccinated by public authorities? In other cities and in school districts? Who may vaccinate? How must the operation be performed? What vaccine virus may be used? For what period of time? What report is required?

When was the physical training law enacted? To what children does it apply? What is the minimum instruction required? Who is charged with the general administration of such law? Who prescribes courses of study? Regulations? Who may make recommendations to the Regents on such matters? What body has advisory powers only? What local school authorities are required to enforce the physical training law? Who must employ teachers in a city? Union free-school district? Town? What power has the Commissioner of Education to direct the employment of teachers? To what extent does this law apply to private schools? How does a failure to provide such instruction affect a private school? What financial aid is given by the State to aid in the enforcement of this law? What teachers may be employed to give instruction in physical training or to supervise such instruction?

Of whom is the military training commission composed? What compensation do the members of such commission receive? Who is authorized to appoint an inspector of physical training? At what salary? What advice is he supposed to give? What recommendation does the Commission make to the Regents? What institutions are exempt from the provisions of the military training law? To what boys do the provisions of this law apply? What period of training is required? Who may give such training? What field training must be provided? What boys must be given the preference? What public property may be used for this training?

CHAPTER XXIV

CONTRACTS FOR EDUCATION OF CHILDREN — TRANSFER OF CHILDREN — TRANSPORTATION OF CHILDREN — FREE TUITION — ACADEMIC INSTRUCTION

[Article 21]

Contracts Between Districts for Education of Children.— For several years the law has authorized a school district to provide for the maintenance of school by contracting for the education of its children with another district. The provisions of this law remain operative until the end of the school year on July 31, 1918. Trustees of school districts, previous to July 31, 1917, possessed the power to contract for the education of the children of their district in the school maintained in another district when authorized by vote of district.

The provisions of the township law supersede, and therefore nullify, the provisions of what is generally known as the contract system between school districts. Before a school district could enter into the contract system, it was necessary for the voters of the district to authorize such contract. Trustees were then required to comply with the instruction given them in relation to making such contract. While the township law continues school districts in their present form, they are continued for the sole purpose of establishing specific territories within which public schools shall be maintained. The district officers in these districts were abolished on August 1, 1917, in so far as the district officers could take official action in relation to new matters or affairs in which the people of the district are interested. These officers were continued for the sole purpose of closing up outstanding affairs, paying the debts, etc., of the district. They may take any action necessary for the performance of these functions, but they have no authority to authorize any action relating to the conduct of schools or pertaining to the affairs of the schools in a town school unit. There is no method afforded under present statutes, after the current school year by which contracts may be authorized between school districts.

Transfer of Pupils.—The law provides that a town board of education may provide for the transfer of pupils to a school in an adjoining town, union free-school district, or city. In many cases children in a section of a town are so located that it would be more convenient for these children to attend a school in a town adjoining or in a union free school district adjoining such town, or even in a city, than to attend a school in the district in which they reside or in the town in which their school district is located. To meet these unusual cases, this provision was incorporated in the township law. The primary purpose of this provision of the law is to meet the convenience of the children without imposing a hardship or injustice upon the adjoining town, union free-school district, or city. The theory is that all schools are State schools and that the State makes an annual payment for the maintenance of all such schools. These schools should be administered, therefore, in the interests of the State and to meet the conveniences of all the children of the State.

When a board of education believes a transfer of this kind should be made such board should give written notice thereof to the board of education of the town, union free-school district, or city to which it is proposed to transfer such pupils. It is assumed, of course, that in the administration of this law a town board of education will not transfer such pupils until it has talked the proposition over in advance and come to an agreement upon the compensation to be paid with the board of the town, district, or city to which such pupils are transferred.

If there is any disagreement between the two boards in relation to the acceptance of such pupils the order of the town boards transferring the pupils in question must be approved by the Commissioner of Education before such order becomes effective.

The law specifically provides that the Commissioner of Education shall not approve the transfer of such pupils when such transfer will require the town, union free-school district, or city receiving such pupils to provide either additional teachers or other school accommodations.

The amount of compensation which a town, union free-school district, or city may receive for instructing pupils transferred in this manner may be determined by agreement between the two boards of education. If such boards are unable to come to an agreement on the question of compensation the subject may be referred to the Commissioner of Education for determination. In

arriving at a conclusion in such a case the Commissioner of Education must use as a basis in fixing the amount of such compensation, the per capita cost of instruction of pupils in the town, union free-school district, or city in which such children were educated.

The cost of the instruction of such pupils shall be a charge against the town in which such pupils reside, and the board of education of that town must provide for the payment of the cost of such instruction out of the school funds of the town in the same manner as other expenses for the maintenance of the schools are provided for and paid. When pupils are thus transferred the board of education of the town, union free-school district, or city to which the transfer is made should present to the board of education of the town in which such pupils reside a verified statement of the cost of the instruction of such pupils and such statement must be signed by the chairman and clerk of the board of education.

Cost of Instruction.— Where reference is made in the law to the compensation to be paid to a union free-school district, town or city for receiving such pupils, it is to the effect that it must be on "cost of the instruction of such pupils."

It is clearly the intention of this law that no hardship or injustice shall be imposed upon a union free-school district, town, or city in receiving pupils under this provision of law. Since schools wherever maintained are State schools and the State contributes to their general support and maintenance, the State may properly require reasonable adjustment of such schools to the general needs of the State. It was the theory of the Legislature that a district should receive pupils living outside its boundaries, when by so doing these pupils would be relieved of great inconvenience or hardship caused by being required to attend school in their home district. At the same time, it is clearly the intention of the law that a district receiving such pupils shall not suffer financial loss, but shall be reimbursed for the actual *cost of instruction*. The question, therefore, is what does this expression mean as used in the statute?

The Chief of the Statistics Division compiled a pamphlet in 1916 relating to uniform school accounting. The plan of accounting outlined in this document has been prescribed by the Education Department for the use of school boards throughout the State, and had been in force for some time previous to the enactment of this law. On page 11, form 3, under the caption, "Instructional Services, is a general outline of what may be included under expend-

itures for *instruction in public schools*. The Education Department has ruled that this must be accepted as including the items which may be set by a board of education in determining the cost of instruction, and, therefore, the tuition which may be charged pupils by such boards pursuant to the provision of the said section 342 of the Education Law. In determining such cost of instruction a board of education may not include interest on cost of school plant, the amount of bonds maturing during the year, the amount expended for repairs or construction or any other item except the items included in the following outline:

FORM 3 — INSTRUCTIONAL SERVICE

- 3-1 **Supervisors' salaries.** Where a supervisor gives a portion of his time to teaching, distribute the salary between 3-1 and 3-9 in proportion to the time devoted to supervision and teaching respectively.
- 3-2 **Other expenses of supervisors of grades and subjects.** Traveling and other expenses allowed in attending conventions, institutions, etc., street car fares, report blanks, stationery used by supervisors.
- 3-3 **Principals' salaries.** If principals teach, divide the salary between 3-3 and 3-9 proportionately to the relative time devoted to supervision and teaching as above.
- 3-4 **Salary of principal's clerk.** Supply teachers acting in that capacity in principal's office. If any of these persons teach, divide the salary as above between 3-4 and 3-9.
- 3-5 **Principals' office supplies.** Stationery, blank forms, report cards, class books, attendance registers, permanent record cards, etc.
- 3-6 **Other expenses of principals' office.** Traveling and other expenses allowed in attending conventions, institutes, etc., car fare.
- 3-7 **Blank column reserved for further classification if desired.**
- 3-8 **Other expense of supervision.** Teachers' traveling and other expenses allowed in attending conventions, institutes, etc., cost of institute speakers, and other institute cost. Common sense must be used to decide just where supervision leaves off and teaching begins. In general this matter can be settled by answering the question, "Does the item paid for actually teach the children or does it make better teachers?"
- 3-9 **Teachers' salaries.** Exclude proportionate part of salary for time spent as supervisor, principal, principal's clerk or superintendent's assistant. This includes teachers of all grades and subjects.

- 3-10 Textbooks** if furnished to pupils. If textbooks are furnished only to indigent pupils, charge in column 9-13. Include supplementary reading books.
- 3-11 Other supplies used in instruction.** This includes paper, chalk, ink, pencils, other schoolroom supplies, laboratory supplies and materials, supplies used in teaching cooking, sewing, drawing, manual training, art, music, kindergarten and physical training, etc. It should be noted that a supply is something, the use of which involves its consumption, breakage or probable loss, while a piece of equipment is an article which is used year after year. Care should be taken to exclude from supplies used in instruction any article made of durable material which is supposed to last year after year with reasonable use. No permanent laboratory apparatus or equipment is to be included in this column. Supplies for recreation, athletics, school gardens, school lunches and all other auxiliary activities enter on form 9 and not in this column.
- 3-12 Commencement exercises and exhibits.** Expense of music, palms, printing programs, renting chairs, moving piano, etc., for commencement exercises or school entertainments.
- 3-13** Blank, reserved for further subdivision of instructional service if desired.

Transportation of Pupils.—The town board of education is authorized under the provisions of the township law to provide for the transportation of children who live so remote from school that they are practically deprived of school advantages during any portion of the school year. A town board of education may include in its budget an item for this purpose. A town board is authorized to provide transportation and meet the expense thereof, without vote of the people of the town. Such transportation may be provided when children attend school either in the town in which such children reside, or attend school in an adjoining town, union free-school district or city.

Parents Not Entitled to Compensation for Conveying Pupils.—To vote compensation to a parent from the public funds for taking his child to and from school was not intended under the contract law. The intent of the law in providing for transportation was that it should be regular and daily; that individual parents should not derive pecuniary advantage from it; and that nothing should be left to parental convenience or caprice. The general rule should be that one person of proper character, furnishing suitable accommodations, should be regularly employed, and the contract for transportation should be awarded, after opportunity for com-

petition, to the most reliable party who will furnish the best transportation at the lowest cost to the district. (Com'r Draper, No. 5219, October 31, 1905.)

The Commissioner of Education will not approve a contract for the education of children when it is shown that the distance such children must travel to attend school is so great as to practically deprive them of school privileges, until transportation is provided for such children.

STATE TUITION FOR NON-RESIDENT PUPILS IN ACADEMIC
DEPARTMENTS

[Section 493]

Object.—The object of this law which has caused so much discussion is to bring within the reach of every boy and girl in the State a complete academic education.

Approved Schools.—No school can receive tuition from the State for the attendance of pupils under this act unless such school is approved by the State Education Department. To be approved a school must maintain a satisfactory course of study, sufficient teaching force, adequate equipment, and suitable school building facilities.

Schools Entitled to Compensation.—To entitle a school to receive compensation for the instruction of non-resident pupils, such pupils must have been in regular attendance in the academic department thereof for a period of not less than eight weeks, and they must reside in districts of the State not maintaining an academic department.

Pupils Who May be Admitted.—All pupils residing within the State and in districts not maintaining an academic department may be admitted into any of the approved schools by presenting to the local authorities a Regents' preliminary certificate. Students possessing equivalent qualifications covering elementary work will be admitted after their credentials have been approved by the State Education Department. The holders of uniform teachers' certificates meet the requirements. Pupils are not required to attend the school nearest their residence, but may attend any approved school where the school authorities admit them under this act. Pupils residing in districts which maintain less than a four years' course may be admitted to schools of higher grade after completing the

course of study prescribed for the school of the district in which they reside.

Schools May Charge Pupils.—A school receiving non-resident pupils at State expense may, with the approval of the Commissioner of Education, charge a pupil the customary rate of tuition upon the condition that the district or townships in which such pupil resides or his parent or guardian assumes the difference between the amount paid by the State and the customary amount of tuition charged.

A school is not required to furnish non-resident students with free textbooks or any other accommodation not fairly included under the term tuition.

Tuition Not Chargeable for Certain Students.—An approved school receiving non-resident pupils under this act will not be entitled to tuition for members of teachers' training schools or training classes. Nor will such schools be entitled to State tuition for pupils in the academic department from districts contracting with such approved school for the education of their children, unless the expense incurred by the contracting district, including transportation of pupils, exceeds \$250. After July 31, 1918, there will be no pupils under what has generally been known as the contract system. The State will not pay the tuition of non-resident pupils in attendance on any department or grade below the academic department.

Compensation.—An approved school receiving non-resident pupils under this act is entitled to \$20 per year tuition for a school year of at least thirty-two weeks, or a proportionate amount for a shorter period of attendance of not less than eight weeks. This amount will be apportioned and paid by the State to the schools receiving such students.

Effect of Township Law.—The enactment of the township law does not modify in any way whatever the law regulating the right of students, living in school districts which do not maintain academic departments, to attend school in a school district which does maintain such department, nor does such law modify in any way whatever the payment of tuition by the State to the school receiving such students. Such students may continue to attend academic schools as non-resident students as they have in former years, and the district receiving them will receive the same apportionment of public funds from the State which it has formerly received.

A pupil, living in a school district which does not maintain an academic school, may attend the academic school maintained in the town in which such pupil resides, or such pupil may attend an academic school maintained in some other town. If a high school is maintained in any district in the town a student, residing in any other district of such town in which a high school is not maintained, has the right to attend such high school by meeting the requirements prescribed for admission thereto. No charge may be made for the tuition of such pupil. If a charge for tuition, in addition to that paid by the State, is made by the authorities of a school for the attendance of non-resident pupils who live in a town in which a high school is maintained, it is within the discretion of the town board of education, having control of the school in which such pupil resides, to determine whether or not such town shall pay such additional charges. If the town board determines not to pay such charges, the amount of such additional tuition must be paid by the parents of the pupil. A town board may not adopt a rule which is binding upon pupils residing within the town which will prevent such students from attending a high school outside of the town.

Academic Instruction Must Be Provided.— Each township must provide suitable instruction for its resident school children. Where such children have successfully completed the work of the eighth grade, instruction in advance of such grade should be provided. If no academic department is maintained in the town, the town board of education should provide for such instruction by contract with another town, union free-school district or city, or by transferring the pupils to an academic school. The town school budget should contain an item for the instruction of such children and for their transportation where necessary.

REVIEW QUESTIONS

What effect has the township law upon the contract system? Explain. What is the law regulating the transfer of pupils by a board of education to another school in an adjoining town, city or school district? When must a board receive such pupils and provide instruction for them? What items may be included in determining the cost of instructions? How may transportation be provided for school children? When? Are parents entitled to receive compensation for conveying their children to school? What general rule in relation to such matter was established by Commissioner Draper?

What is the object of the non-resident free tuition law? What schools may receive pupils? What schools may be approved? What period of time must pupils attend to entitle a district to funds? Explain fully what pupils may be admitted. When may a school charge pupils additional tuition? What amount? Are schools required to accept such pupils? For what pupils may not tuition be charged? What compensation does the State pay? Explain fully the effect of the township law on this plan.

CHAPTER XXV

SPECIAL CLASSES FOR MENTALLY RETARDED — PHYSICALLY DEFECTIVE — ORPHAN SCHOOLS — STATE INSTITUTIONS FOR DEAF AND DUMB AND FOR THE BLIND

CHILDREN MENTALLY RETARDED

Enumeration of.— It is the duty of the board of education of each union free-school district, town or city to take an enumeration of all the children residing in such district, town, or city, who are in attendance upon the public school therein and who are three years or more retarded in mental development.

Special Classes for.— The board of education of each district, town, or city in which there are ten or more children of such retarded development, is required to establish special classes which shall not contain more than fifteen pupils for the education of such children. The instruction provided in these classes must be adapted to the mental attainments of such children. As many classes shall be maintained as are necessary to provide adequate education for all children of this type.

Classes Maintained by Contract.— In a union free-school district, town or city in which there are less than ten children of this type, the board of education is authorized to contract with another district, town, or city which has established classes for such type of children.

Regulations.— The Commissioner of Education is authorized to prescribe regulations to govern the enumeration of such children, and the classes which are to be maintained for their instruction.

State Aid.— No special aid is provided by the State to assist communities in meeting the special needs of this type of children. Each teacher employed in a special class of this kind will entitle the district, town or city in which she is employed to the teacher's quota of \$100.

PHYSICALLY DEFECTIVE CHILDREN

Enumeration of.—It is the duty of the board of education of each union free-school district, town, or city to take an enumeration of the physically defective children residing in the district, town or city over which such board has jurisdiction. This enumeration must include all children who are under the age of eighteen years, and who are deaf, blind, or so crippled or otherwise physically defective as to be unable to attend upon instruction in regular classes maintained in public schools.

Special Instruction.—It is the duty of the boards of education of a school district, town, or city in which there are ten or more such physically defective children, to establish such special classes as may be necessary to provide instruction adapted to the mental attainments and physical conditions of such children.

It is contemplated under this law that there should be ten pupils of the same type in order to require a board of education to establish a special class. If there are ten deaf children a special class should be established for children of this type. If there are ten or more blind children a class should be established for children of such type. If there are ten or more crippled children a special class should be organized for such children. The intention of the law is that a room should be set apart in the school building or in such number of school buildings as may be necessary to accommodate the number of children in the district or city, and to make such classes reasonably accessible to the children from all parts of the city.

Classes Maintained by Contract.—When there are less than ten children of either of the above types residing in a district, town or city, a board of education may contract for the education of such children with a board of education of another district, town or city in which special classes have been organized for the instruction of children of such types.

Regulations.—The Commissioner of Education is authorized to prescribe regulations to govern the enumeration of such children, and the classes which are to be maintained for their instruction.

State Aid.—No special aid is provided by the State to assist communities in meeting the special needs of this type of children. Each teacher employed in a special class of this kind will entitle the district, town or city in which she is employed to the teacher's quota of \$100.

ORPHAN SCHOOLS

[Article 35]

The schools of all the incorporated orphan asylum societies in this State, except those in the city of New York, are subject to the rules and regulations of the common schools of the city or district in which such societies are located, but such schools are under the immediate management and direction of such societies.

These schools are entitled to participate in the apportionment of the school moneys in the same manner and to the same extent, in proportion to the number of children educated therein, as are the common schools in the districts in which such societies are located.

The presiding officer of each asylum maintaining a school must make an annual report to the Commissioner of Education, showing the number of pupils therein, the studies pursued by them, the time devoted thereto, and the manner in which public funds apportioned it have been expended.

INDIAN SCHOOLS

[Article 37]

General Statement.— There are eight Indian reservations in this State. On these reservations thirty-three Indian schools are maintained, in which are employed thirty-six teachers. These reservations are located as follows:

Name of Reservation.	County of Location.
Allegany.	Allegany.
Cattaraugus.	Cattaraugus and Erie.
Onondaga.	Onondaga.
Poospatuck.	Suffolk.
St. Regis.	Franklin and St. Lawrence.
Shinnecock.	Suffolk.
Tonawanda.	Erie.
Tuscarora.	Niagara.

Duty of Commissioner of Education.— The Commissioner of Education is charged with general supervision of the Indian schools. He should ascertain the needs and character of the education of the various Indian bands in the State, and provide schools in such places as he deems necessary. He employs all necessary teachers, truant officers, and other assistants and employees and fixes their

salaries. He erects school buildings when funds are appropriated therefor.

Co-operation of 'Indians.—The Commissioner of Education is charged with obtaining the co-operation of the several bands of Indians in supporting the schools established for their benefit. He is required to visit their reservations, or delegate some representative to visit them, to discuss means of improvement and education with them in public assembly and to induce them, if possible, to donate land, material, labor, and public funds for the erection of suitable buildings.

Protection to Title.—When any of the Indian land shall have been given for occupancy or use for school purposes the right or title of Indians to such land should be protected. The right of the State to remove or otherwise dispose of all improvements made at the expense of the State should be reserved in all contracts.

Annual Appropriation.—For the purpose of executing the provisions of law relating to Indian schools, the Legislature makes an annual appropriation. This money is paid by the State Treasurer on the warrant of the Comptroller to the order of the Commissioner of Education, from time to time, as such money is needed. Special appropriations from the general fund are sometimes made by the Legislature for repairs and improvements on the school property of reservations.

Vouchers and Receipts.—The Commissioner of Education is required to file in his office vouchers and receipts for all expenditures made under the provisions of this chapter.

Report to Legislature.—The Commissioner of Education is required to report annually to the Legislature the condition of Indian schools.

DEAF AND DUMB AND BLIND INSTITUTIONS

[Article 38]

Duty of Commissioner of Education.—All institutions for the instruction of the deaf and dumb and blind, and all other similar institutions incorporated under the laws of this State are under the inspection and supervision of the Commissioner of Education. He should ascertain the expenditures of each institution, the system of instruction pursued therein, and the condition of the lodgings and accommodations of the pupils.

He should ascertain by comparing these institutions with similar institutions whether improvements in instruction and discipline can be made. For this purpose he may appoint persons to visit these institutions. He should also suggest to the directors of these institutions and to the State Legislature those improvements and changes which in his judgment are deemed wise.

Annual Report.—The Commissioner of Education is required to make an annual report to the State Legislature on all matters relating to these institutions; particularly to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

Eligibility of Appointments of Deaf and Dumb Persons.—A deaf and dumb person to receive an appointment as a State pupil to an institution for the deaf and dumb must possess the following qualifications: Such person must be upwards of twelve years of age and have been a resident of the State for one year immediately preceding his or her application for admission to such institution; or, if a minor, the parent or parents, or if an orphan, the nearest friend must have been a resident of this State for one year immediately preceding the application for an appointment as a State pupil.

Upon the application of a parent, guardian or friend of a deaf-mute child, residing in this State and between the ages of five and twelve years, the overseer of the poor or the supervisor of the town in which such child may be, is required to place that child in one of the institutions named in section 978 of the Education Law. The child must be maintained in that institution at the expense of the county from which she was appointed, but the expense shall not exceed three hundred fifty dollars per year. If the director of the institution to which the child is committed finds that the child is not a proper subject to remain in said institution, the institution is not required to continue to care for the child.

Eligibility of Blind Persons for Appointment as State Pupils.—All blind persons of suitable age (no specific age required by law) who possess the same qualifications in regard to residence as deaf and dumb candidates, may be appointed State pupils as follows:

All those who are residents of Nassau, New York, Kings, Queens, Suffolk, Richmond, Westchester, Putnam, and Rockland shall be appointed to the Institution for the Blind in New York city.

Those residing in all other counties in the State should be appointed to the Batavia institution.

By Whom Appointments are Made.—Appointments of State pupils to any of these institutions, except the Institution for the Blind in Batavia, are made by the Commissioner of Education upon application. In making such appointments the Commissioner of Education may impose the condition, in the case of parents or guardians or friends who have sufficient means, that some portion of the expense of educating and clothing such pupil shall be borne by the parent, guardian or friend. The Commissioner also has the authority to modify such conditions whenever he deems it wise to do so. Appointments to the Batavia institution are made to the board of trustees, and must be approved by the county judge or county clerk of the county or the supervisor or town clerk of the town or the mayor of the city in which the applicant resides.

Support of State Pupils.—A State pupil appointed to any of these institutions must be provided with board, lodging, and tuition. The deaf and dumb institutions and the blind institutions are entitled to receive such sum for each pupil to be paid quarterly as the Legislature appropriates. State pupils who are children of indigent parents or guardians are supplied with clothing by the counties from which they are appointed.

The treasurer of each institution should present a bill showing the number of pupils and the time each pupil attended, to the State Comptroller for audit and payment.

This bill must be signed and verified by oath of the president and secretary of the institution. The bill is paid by the State Treasurer on the warrant of the Comptroller.

Term of Instruction.—The regular term of instruction for each pupil is five years, but the Commissioner of Education may extend such time not to extend three years. He may also extend the term to cover three years of instruction beyond the elementary course.

Regulations for Admission of Pupils.—The Commissioner of Education may establish regulations to require the admission of pupils at these institutions at regular periods.

The Legislature of 1897 authorized the Albany Home School for the Oral Instruction of the Deaf to receive deaf and dumb persons who are eligible to appointment, and who are more than twelve

years of age. The Commissioner of Education is also authorized to make appointments to this institution.

County Must Supply Clothing.—If a parent or guardian of a State pupil in any of the institutions for the deaf and dumb is unable to furnish such pupil clothing, the board of supervisors of the county from which such pupil was appointed must raise each year for each of such pupils the sum of \$30 for supplying clothing to such pupils.

Payment for Aid to Blind Pupils Attending College.—The trustees of any college, university, technical or professional school located in this State, authorized to confer degrees except an institution for the instruction of the blind, may designate blind students in attendance upon such institutions who are residents of this State as fit persons to receive special aid in doing the work required in such institution. Persons may be employed to read to such blind students from the textbooks or pamphlets used by such students in their studies at a compensation of \$300 per year.

The treasurer of any of such institutions after the beginning of a school year may present to the State Comptroller a verified statement showing the number of blind students regularly matriculated and working for a degree. No other student can be included. The Comptroller will issue his warrant and thereon the State Treasurer will pay to the treasurer of such institution the amount to which the institution is entitled. The trustees of the institution will then disburse the moneys for the purposes aforesaid.

Instruction for Blind Babies, etc.—The Commissioner of Education may in his discretion appoint children twelve years of age and under as State pupils in one of the homes for blind babies and children maintained by the International Sunshine Society, Brooklyn Home for Blind, Crippled and Defective Children and the Catholic Institute for the Blind. When these children are thus appointed to one of these homes the home receiving them is entitled to the same compensation that other institutions receive which may accept State blind pupils.

REVIEW QUESTIONS

Who is required to make an enumeration of mentally retarded children? What children must be included? When must special classes be established? How many? What type of instruction must be provided? When may a board of education provide for the instruction of such children by contract?

Who is authorized to prescribe regulations governing the subject? What aid is given by the State?

Who is required to make an enumeration of physically defective children? What children must be included? What instruction must be provided? What is the interpretation of this law? When may classes be maintained by contract for these children? What power has the Commissioner of Education in such matter? What State aid is provided?

How are the schools of the incorporated orphan asylum societies related to the public school system? To what public money are they entitled? What report must be filed with the Education Department? What is the duty of the Commissioner of Education in relation to Indian schools? When may he cause school buildings to be erected on Indian reservations? What co-operation of the Indians should he enlist? What protection to title should be given to Indians when their land is used for school purposes? What right should be reserved to the State? What amount is annually appropriated for this purpose? How is this money paid? What is done with the vouchers and receipts? What reports must be made in relation to Indian reservations?

What jurisdiction has the Commissioner of Education over deaf and dumb and blind institutions? What knowledge of the work of these institutions should he possess? What report in relation to these institutions must be made? Who are eligible to appointment as State deaf and dumb pupils? Who are eligible to appointment as State pupils to blind institutions? By whom are these appointments made? In making these appointments what conditions may the Commissioner of Education impose? How are these State pupils supported? To whom are bills for these expenses presented? In what form? By whom are they paid? What is the regular period of instruction? What extension may be granted? Who adopts the regulations for admission of these pupils? What institution was authorized by the Legislature of 1897 to receive deaf and dumb pupils for instruction? When must a county provide pupils with clothing? Explain the conditions under which payments will be made by the State to assist blind pupils in attendance upon college.

CHAPTER XXVI

SCHOOL AND PUBLIC LIBRARIES

[See Title 44]

Apportionment of Library Moneys.—On account of the unification act it became desirable to unite the library funds which had heretofore been distributed by the two former educational departments. The Legislature, therefore, now makes but one appropriation for school libraries. This appropriation is for an amount equal to that given the two old departments and the method of distribution is such that a school may draw from this fund as much money as it was allowed heretofore from both funds. The method of this apportionment will be found in the article which treats of school moneys. The method of distributing the money is as follows:

An apportionment is made on or about the first of each month based on the applications received during the previous month. This apportionment is certified to the Comptroller.

The State Treasurer upon the warrant of the Comptroller pays to each county treasurer, excepting in the counties comprising the city of New York, an amount equal to that apportioned to all of the schools in his county.

The Commissioner of Education then certifies to the county treasurer the schools to which money is due and the amount due to each. Upon receipt of this certificate from the Commissioner of Education the county treasurer pays the allotment to each of the schools entitled to receive the same.

In the city of New York all money due the city is paid to the city chamberlain and all money due to private academies is paid directly to the treasurer of the academy.

Commissioner of Education Has General Supervision.—The Commissioner of Education has power to establish, modify, or abolish any regulation for the expenditure of school library money and the administration and care of school libraries. All provisions of law and rules of the Commissioner of Education for the management of district libraries shall apply to the management of school libraries until modified as directed by law.

Expenditure of Library Money.— No part of the library money of a district — either that raised by the district, apportioned from State funds, or received from any other source — shall be used for any other purpose than for the purchase of books, apparatus, or reproductions of standard works of art, and such books must be approved by the Commissioner of Education before being purchased.

Commissioner May Withhold Money.— The Commissioner of Education may withhold from any city or district its share of *public school moneys*, for expending library money for any other purpose than the purchase of approved books, or for any other willful neglect or violation of law or of the regulations which the Commissioner has adopted.

Librarian.— The board of education of a union free-school district and also the board of trustees of a common-school district shall appoint as librarian one of the teachers in the employ of their district. Such librarian and trustees or board of education, as the case may be, shall be responsible for the safekeeping and care of the books in the library of their district. They shall annually, and oftener if called upon, make a report as the Commissioner of Education shall direct concerning such library. If a board of education in a union free-school district fails to select a librarian, the teacher of English in such school becomes the librarian. If such district employs a librarian meeting the qualifications prescribed by the Commissioner of Education, the district is entitled to receive an additional teacher's quota from the State. If a librarian is not appointed in a district which is not a union free-school district, the principal teacher becomes the librarian.

Use of School Library.— A school library is not intended to be a circulating library. It must be kept in the school building at all times and it forms a part of the school equipment. Pupils, school officers, teachers and other residents of the district, however, may, when the rules of the Commissioner of Education permit, borrow any book in said library not needed for reference in the school-rooms. Such persons may not borrow more than one book at a time nor keep such book more than two weeks.

Books of Which Library Shall Consist.— School libraries shall consist of reference books to be used in the school-room, suitable supplementary reading-books for pupils, books relating to the branches of study being pursued in the school, and pedagogic books for the assistance of teachers. The Commissioner of Education

will not approve a list including several copies of a textbook upon any subject for the use of pupils. This would really be furnishing free textbooks, which is not permissible.

Books May be Transferred to Free Library.—The books or library property of any city or union free-school district may be transferred by the board of education of such city or union free-school district to any township or other free public library under State supervision, upon condition that such library shall remain free to the people of such city or district. Such city or district may also aid by tax or in any other way in the establishment of such free public library. The same action may be taken by any common-school district in the State when a majority of the legal voters present and voting at any meeting, duly convened, shall so direct.

Release of School Authorities.—The approval of such transfer should be obtained from the Regents under their seal, and a receipt of such transfer should be taken from the officers of the free public library to whom the transfer is made. Such approval and such receipt shall thereafter relieve the school authorities of such districts or cities from further responsibility for said library and property transferred.

REVIEW QUESTIONS

How is library money now apportioned? By whom? On what basis? When? How does the money reach the county treasurer? The school districts?

For what purpose must library money be expended? What books may be purchased? What is the penalty for expending library money for other purposes than for books approved by the Commissioner of Education? What for failing or refusing to comply with the regulations of the Commissioner of Education? By whom is the librarian of a union free school appointed? Of a common school? Who must be selected librarian in either case? Who is responsible for the care and safe-keeping of a library? What reports must be made to the Commissioner of Education?

May a school library be used as a circulating library? Where must the library be kept? Who may borrow books from such library? When? For what period? How many books at one time? Of what books must such library consist? May duplicate textbooks be purchased for pupils? Why? To whom may the library of a city or a union free-school district be transferred? Upon what conditions must such transfer be made? By whom is such transfer made? When may a common-school district make such transfer? What aid may a city or a school district give to the establishment of this project? What approvals to such transfers should be obtained? What receipt? What is the effect of such approval and such receipt?

CHAPTER XXVII

STATE SCHOLARSHIPS — IN CORNELL UNIVERSITY — IN OTHER COLLEGES AND UNIVERSITIES

IN CORNELL UNIVERSITY

[Article 40]

Origin.— In 1862 Congress passed the National Land Grant Act, under the terms of which each State received thirty thousand acres of public land owned by the United States, for each representative that she had in Congress. This land was donated by the national government to the States and Territories of the Union for the purpose of establishing colleges for the benefit of agriculture and the mechanic arts. New York State received by this Act nine hundred ninety thousand acres of land. The State Legislature of 1863 enacted a law providing that the revenue derived from the sale of this land should be given, under certain conditions, to the authorities of the People's College at Havana. The authorities of this college failed to meet the conditions prescribed by the Act of 1863, and the Legislature of 1865 provided that the revenue derived from the sale of this land should be given to the authorities of Cornell University. This Act of 1865 provided, among other conditions, that Ezra Cornell should contribute unreservedly \$500,000 to the authorities of Cornell University, and that the University should receive annually one State scholar free of tuition for each assembly district in the State. As Mr. Cornell contributed the amount specified, the revenue derived from the sale of this land was donated to the University. The amount realized by the State from the sale of this land was \$688,576.12. The Legislature of 1895 enacted a law providing that this money should be placed under the control of the State, and that the State should pay annually to the trustees of Cornell University five per cent upon this fund. The University, therefore, receives annually \$34,428.80. The State scholars in the University who receive free tuition include about one-seventh of the entire number of students attending the University, and the University receives from the State only \$34,428.80, while the entire cost of maintaining the University is about one million dollars annually.

Number of Scholarships.—The act creating State scholarships provided that State scholarships should be awarded annually for each assembly district in the State. At this time there are 150 assembly districts, and this is the basis on which appointments are now made. Each scholarship is valid for four years, and as 150 appointments are made each year, the State has 600 State scholars in Cornell University at all times.

How Awarded.—Appointments to State scholarships are made by the Commissioner of Education, upon the result of competitive examinations held for that purpose. Albany county has three assembly districts and is entitled to three State scholarships. The names of candidates who take the examination for this county are arranged in the order of their merit, which is determined by their standing in the examination. The first three on the list are assigned to the scholarships for Albany county, irrespective of the assembly districts in which they reside. The same course is pursued in assigning appointments to all other counties. No person can be considered in awarding these scholarships who did not attend the required competitive examination.

Competitive Examinations.—These examinations are held on the first Saturday in June of each year at the county seat of each county in the State. The district superintendents and the city superintendents jointly conduct the examination for their respective counties. These examinations are under the supervision of the Commissioner of Education, and the questions used in such examinations are prepared under his direction. The subjects in which candidates are examined are designated by the president of Cornell University. These may change from year to year, but the general scope of the examination for each year may be obtained by writing the Education Department for the annual circular issued from that office.

Eligibility.—To be eligible to enter a competitive examination candidates must be at least sixteen years of age, must be residents of the State, and must have been in attendance upon some public school or academy of the State for at least six months during the year immediately preceding the date on which such competitive examination is held. Attendance upon an institution registered as an academy under the regulations of the University of the State of New York meets the requirements of the law. Candidates must

attend examinations in the county in which they actually reside. Students of either sex are eligible to these scholarships.

Entrance Examinations.—All candidates who receive appointments, but who do not hold credentials to admit them to the University, are required to take the regular entrance examinations at the University. A failure to take this examination or to obtain a standing therein satisfactory to the University authorities forfeits all right to the scholarship.

Vacancies.—If a vacancy occurs in a State scholarship, it is the duty of the president of the University to notify the Commissioner of Education of such vacancy. The Commissioner of Education should then assign to such vacant scholarship the person standing highest on the eligible list of candidates for the county to which such scholarship belongs. If there should be no person on the eligible list for such county, then the Commissioner of Education should appoint the person standing highest on the eligible list which is made up from all the counties of the State. The person receiving such appointment is entitled to the privileges of such scholarship for the remaining period of the four years for which it was granted.

Scholarship Privileges.—The holder of a State scholarship is entitled to free instruction in any department of the University for a period of four years.

Leave of Absence.—If a State scholar shows to the satisfaction of the president of the University that it is necessary for him to leave the University to earn funds with which to meet his living expenses while attending the University, the president may, in his discretion, grant such leave of absence, and such State scholar will then be allowed six years from the date of entrance in the University in which to complete the course.

IN OTHER COLLEGES AND UNIVERSITIES

Number.—Five scholarships are awarded annually to each county for each of the assembly districts therein. A county, therefore, having four assembly districts would be entitled to receive twenty scholarships. The law further provides that at no time shall there be more than twenty scholarships established and maintained for each assembly district, and at no time shall there be more than three thousand such scholarships for the entire State. As there are one hundred fifty assembly districts, and each district is entitled to five

scholarships annually, and the scholarship law has been in existence four years, there have already been appointed for each of the assembly districts twenty State scholars, and three thousand such scholars have been appointed for the entire State. One-fourth of this number leave the college annually now, as they have completed their courses, and their places are taken by the new scholars who are annually appointed. The State will therefore continue to have 3,000 State scholars in attendance upon the colleges and universities of the State. This limitation of State scholarships does not apply to scholarships which may be created by revenues or income of trust funds, gifts, devise or bequests.

Scholarship Fund.— A fund is created by the Legislature known as the scholarship fund of the University of the State of New York. This fund shall consist of the following:

- a. All money appropriated to such fund by the Legislature.
- b. All money which may hereafter be given by gift, grant, devise or bequest, for the payment of such scholarships, and all income or revenue derived from any trust created for the same purpose. The Regents of the University, or the Commissioner of Education, may be the trustee to receive funds of this kind.

How Scholarships Are Awarded.— Each year in the month of August the Commissioner of Education is required to prepare from the records of the Education Department a list of the names of all pupils of each of the counties of the State who become entitled to college entrance diplomas under Regents rules during the preceding school year. This list must also show the average standing of the pupils in the several subjects on which each of such diplomas was issued.

The Commissioner of Education is required to appoint annually, in the month of August, for each county of the State those pupils residing therein who become entitled to college entrance diplomas during the preceding school year. Such appointments must be made in the order of the merit of such candidates as shown by the list prepared under the conditions stated in the above paragraph.

The Commissioner of Education is further required to make another list of the names of pupils on the lists for the several counties who were not appointed to scholarships in the county of their residence. The names of these pupils are arranged upon a State list in the order of their merit and determined upon their average standings on the several county lists. As unclaimed vacant

scholarships occur in any county of the State such vacancy shall thereafter be filled by appointment from this State list.

Vacant Scholarships.—A pupil who is entitled to a scholarship and is notified thereof must accept the same within thirty days after being notified. The court has held that a student in attendance upon a high school, who is entitled to a college entrance diploma under Regents rules, is not thereby entitled to receive an appointment to a scholarship, but that such student must make written application for a college entrance diploma within the time limit specified under Regents rules.

The court refused to direct the Commissioner of Education to include in the list of persons entitled to scholarships the name of a student who had earned a college entrance diploma, but who had failed to make application therefor as required under Regents rules. (*Carnes v. Finley*, 98 Misc. 390.)

Failure to file such acceptance vitiates the right to receive such scholarship. Failure to comply with the rules of the Regents forfeits a scholarship. A scholarship may also for proper cause be revoked and a vacancy thereby occur. When a vacancy occurs in a county the pupil from that county standing next highest on the list is entitled to be appointed to such vacancy. If the vacant receive such scholarship. Failure to comply with the rules of the Regents forfeits a scholarship. A scholarship may also for proper cause be revoked and a vacancy thereby occur. When a vacancy occurs in a county the pupil from that county standing next highest on the list is entitled to be appointed to such vacancy. If the vacant scholarship is not claimed by a resident of the county in which the vacancy occurs, or if there be no resident entitled to appointment in the county, the vacancy is filled by making appointment from the State list in the order in which the candidates are arranged thereon.

Scholarship Certificate.—A pupil, notified of his right to a scholarship, who accepts the same, is entitled to receive from the Commissioner of Education a scholarship certificate setting forth such right.

Revocation of Scholarship.—The Commissioner of Education is authorized to revoke a scholarship. After such scholarship is revoked the holder thereof is entitled to no further rights therein. A vacancy also exists which may be filled as provided under the scholarship law. A scholarship may be revoked for failure to com-

ply with Regents rules in respect to the use of such scholarships, for failure to observe rules, regulations or conditions prescribed by a college in relation to the students attending the same, or for suspension or expulsion from college, or absence therefrom without proper leave.

Rights Under Scholarship.—The holder of a scholarship is entitled to attend any college or university in the State approved by the Regents for a period of four years, and may pursue any course of instruction given in such college or university except professional instruction in law, medicine, dentistry, veterinary medicine, or theology.

Each State scholar is entitled to receive \$100 each year for a period of four years, to aid him in the completion of a college education. This amount is paid in two equal payments of \$50 each. One payment is made on the first day of October, and the other on the first day of March. These payments are made upon vouchers, or evidence showing that the persons holding such scholarships are in attendance upon an approved college and complying with such other regulations as the Regents have prescribed.

REVIEW QUESTIONS

Explain fully the origin of State scholarships in Cornell University. How many scholarships are awarded each year? By whom are appointments to these scholarships made? Explain fully how they are made. Explain fully how the competitive examinations are conducted. Who are eligible to enter these examinations? Where must candidates attend examinations? What is the ruling in relation to State scholars taking entrance examinations at the University? Explain how vacancies are filled in the University. What privileges does a scholarship confer? By whom may a leave of absence be granted to a State scholar? For what purpose?

How many scholarships are awarded annually in each county? What limitation is there placed upon the number of scholarships? Of what does the scholarship fund consist? Explain how scholarships are filled. When are appointments made? By whom? How may a scholarship be vacated? How are vacancies filled? What entitles one to a scholarship certificate? Who may revoke a scholarship? On what ground may one be revoked? What rights as to college attendance does a scholarship confer? As to funds?

CHAPTER XXVIII

STATE NORMAL INSTITUTIONS

[Article 32]

Historical Sketch.— There are ten State normal schools in the State and one State normal college. Their location and the dates on which they were established and opened are as follows:

LOCATION	Estab- lished	Opened
State College for Teachers.....	1844	1844
Brockport	1866	1867
Buffalo	1867	1871
Cortland	1866	1869
Fredonia	1866	1868
Geneseo	1867	1871
New Paltz	1885	1886
Oneonta	1887	1889
Oswego	1863	1863
Plattsburg	1889	1890
Potsdam	1866	1869

The Legislature of 1917 authorized the establishment of an additional State normal school in Westchester county. The State Board of Regents may accept a site and a municipality in the county may donate such site. The building is not to be erected until all other normal schools in the State are put in proper physical condition.

The first school at Albany was simply an experiment and was only temporarily established. It was made a permanent institution in 1848. In 1890, this school was changed to the State Normal College and in 1914 to State College for Teachers. Since the establishment of these institutions about 30,000 students have been graduated therefrom. They are now attended by about 10,000 pupils annually and maintained at an annual expense of nearly one million dollars. The value of the property of these schools is more than \$3,500,000.

The Object.— The acts creating these schools state their establishment to be “for the instruction and practice of teachers of common schools in the science of education and the art of teaching.”

How Established.—Normal schools are established by special act of the State Legislature. There is no general law providing for their creation.

How Governed.—The Commissioner of Education has general supervision of these schools. Each school, however, has a local board, whose members are appointed for life by the Commissioner of Education. As vacancies occur, either by death or resignation, they are filled by appointment by the Commissioner of Education. The local board must consist of not less than three and not more than thirteen members. (The board of trustees of the State College for Teachers consists of five members.) The number on each board varies, ranging from six to thirteen. The present policy is to maintain boards of seven. Members of a local board can be removed by the joint action of the Commissioner of Education and the Chancellor of the University of the State of New York. A majority of the members of a local board constitutes a quorum for the transaction of business.

Powers and Duties of Local Board.—1. The local board is required to establish rules and regulations for the general government of the school under its direction subject to the approval of the Commissioner of Education.

2. The local board is required to make an annual report in such form and giving such information as the Commissioner of Education shall direct. This report is submitted to the State Legislature through the Commissioner of Education.

3. Local boards are the custodians of the buildings and grounds of their respective schools and of all other property of the State pertaining thereto.

4. Local boards are authorized to appoint special policemen to protect the buildings and grounds and to preserve peace. These officers have power to arrest offenders.

5. It is the duty of local boards to supply these schools with necessary equipments and supplies.

6. Local boards may, with the approval of the Commissioner of Education, accept for the State money or property of any kind to be used for the general support of these schools as may be prescribed by the instrument making the gift.

7. Local boards employ and contract with the teachers employed in their respective schools.

8. A local board has power to dismiss pupils.

Principal.— The principal is the chief executive officer for the board and has the immediate supervision of all work pertaining to the management of the school and the instruction given therein.

Powers and Duties of Commissioner of Education.— The Commissioner of Education is directed by law to appoint members of the local board, he determines the number of teachers to be employed and the amount of compensation to be paid them, he approves the appointment of teachers, and also prescribes the courses of study.

He is also empowered to prescribe the conditions upon which pupils will be admitted to these schools, and to determine the number which may be admitted to each institution.

Admission of Pupils.— To be admitted to a normal school, candidates must be at least sixteen years of age and must receive an appointment from the district superintendent of the supervisory district or from the superintendent of schools of the city in which such candidates reside. Candidates must present a diploma of graduation from the four-year course prescribed by the Commissioner of Education for admission to normal schools and city training schools under the provisions of section 551 of the Education Law.

Candidates, twenty-one years of age, who have had two years of high school work, or its equivalent, and in addition thereto have taught two years, will be admitted to the normal school on the understanding that they must complete the high school course in addition to the professional course before they shall be graduated.

Graduates of training classes who entered the class upon an academic diploma and who have taught one year since graduation from the training class may complete the professional course in the normal school in one year if they possess the required aptitude for training.

Privileges of Pupils.— Residents of the State regularly admitted to a normal school cannot be charged tuition and cannot be charged for the use of books or apparatus. Pupils, however, are chargeable for books lost by them or damaged while in their possession.

Dismissal of Pupils.— The local board may dismiss pupils for disorderly or immoral conduct or for neglect or inability to perform their work, or for a failure to comply with the regulations of the school upon which they are in attendance.

Non-Resident Pupils.—Pupils who are not residents of the State may be admitted to these schools upon paying such tuition as the Commissioner of Education shall prescribe, which is \$20 per term.

Indian Pupils.—The State Treasurer is authorized to pay on the warrant of the State Comptroller to the Commissioner of Education such sum as may be appropriated for the support and education of Indian youth in the State normal institutions.

These pupils must be selected by the Commissioner of Education from the several Indian tribes in the State so as to distribute such selections equitably among these tribes. They must not be under sixteen years of age, and they are not entitled to more than three years' education in such school. The local board is made the guardian of such pupils while they are in attendance upon such institution, and such board is authorized to pay the necessary expenses of such pupils, from the funds provided for such purpose.

Courses of Study.—Each of the normal schools has a two-years' professional course. The course is practically the same in all the schools. Some also have a special kindergarten and primary course. These courses are prescribed by the Regents of the University. Special courses in kindergarten, domestic art and science and other vocational courses are given in these schools.

Diplomas.—The Commissioner of Education prepares diplomas, which are granted to those who complete a course of study in these institutions. These diplomas are signed by the Commissioner of Education, the chairman and secretary of the local board, and the principal of the school. State College for Teachers diplomas are signed by the Commissioner of Education, and the President of the college. Such diplomas entitle their holders to teach for life in the public schools of the State. They may be revoked by the Commissioner of Education for cause. The diplomas show the course of study which was pursued.

Application of Tuition.—Local boards could formerly expend the tuition received from any department of their respective schools for apparatus, furniture, repairs, insurance, improvements upon the grounds or buildings, or for ordinary current expenses. It is now paid into the State treasury but is appropriated by the Legislature to the schools which collected it.

Local Authorities May Insure Normal School Property.—The authorities of each city or village in which a State normal school is

located may insure the real and personal property of such school when the State refuses to keep adequate insurance on such property. Such insurance must be in the name of the State, and any money obtained therefrom must be used to repair or replace the property damaged or destroyed.

Application of Insurance Money.—Whenever money is realized from insurance of the property or buildings of normal schools, such money must be deposited by the company in which such property is insured in a bank designated by the State Comptroller. It must be placed to the credit of the local board of such school and kept as a separate fund. Such money may be immediately used by the local board of the school to which it belongs upon the approval of the Commissioner of Education, to repair or replace in whole or in part the property damaged or destroyed.

Academic Departments.—In some normal schools, academic departments are maintained by the State for the benefit of the localities in which such normal schools are located. Children of school age residing within the bounds of such localities are entitled to attend such schools. This is done in consideration of certain privileges conferred upon such school by these localities at the time such normal schools were created. Non-resident pupils cannot lawfully be permitted to attend the academic departments of these schools.

Removal of Teachers.—The principal and any teacher employed in a normal school may be removed upon joint action of the local board and the Commissioner of Education. The initiatory steps in these proceedings should be taken by the local board. In June, 1880, Superintendent Gilmour demanded the resignation of Principal Hoose, of the Cortland normal school. Principal Hoose refused to resign. In July, Superintendent Gilmour withdrew his approval of the appointment of Principal Hoose and appointed another principal, whom the local board would not approve. The case was taken to the courts, and in April, 1882, the Court of Appeals decided the case in favor of Principal Hoose and the local board, on the ground that joint action of the board and Superintendent was necessary to remove the principal, and that the Superintendent did not possess the power of removal.

The Court of Claims in 1884, awarded Dr. Hoose payment in full for his salary, except for the time he was elsewhere employed,

between the beginning of the litigation and the decision of the Court of Appeals. (People ex rel. Gilmour v. Hyde, 89 N. Y. 44.)

Special Powers for Fredonia School.—The practice department of the Fredonia normal school is treated as a union free-school district.

Jamaica School.—This school was established in 1893 and opened in 1897. It was transferred by chapter 524, Laws of 1905, to the control of New York city.

RETIREMENT OF TEACHERS

[Article 43a]

General Statement.—The Legislature of 1910 enacted a civil service retirement law. It is the first law of this character enacted in the history of the State. It applies to teachers employed for a certain period of time in a college, university, school or institution maintained and supported by the State and to teachers in schools for the deaf and dumb and the blind receiving pupils whose instruction and support are paid for by the State. It was more particularly enacted, however, in the interests of the teachers employed in the State normal schools. Teachers are therefore the first of the civil employees of the State to receive recognition under a retirement fund.

Who May Retire or be Retired.—A person who has taught in the aggregate thirty years either in this State or elsewhere and for ten years immediately preceding application for retirement taught in one of the State institutions above described *must* on his request be retired. Service in teachers' institutes may be counted the same as teaching.

2. A teacher of like age and experience who does not make application for retirement *may* on the order of the Commissioner of Education be retired.

3. A teacher who has taught ten years in one of these institutions and who has taught an aggregate period of twenty years and who has become physically or mentally incapacitated and such fact is certified by the board in charge of the institution in which he is teaching *may* on the order of the Commissioner of Education be retired.

Retirement Certificate.—A teacher who is entitled to retire or to be retired under either of the first two provisions defined in

the preceding paragraph should execute an affidavit setting forth the number of years of employment, the places where employed and the salary received at the time. Such affidavit should be filed with the Commissioner of Education. The Commissioner of Education if satisfied that the affidavit is truthful should issue a certificate to such teacher to the effect that he has been retired from active service.

If a teacher is retired on the order of the Commissioner of Education he should also issue to such person a retirement certificate.

Amount to be Paid to Retired Teacher.—A teacher retired under this law is entitled to be paid one-half his salary at the time of retirement but the amount paid shall in no case exceed \$1,000. In no case shall the amount be less than \$300.

Time of Payment.—The law provides that payment shall be made quarterly commencing with the first quarter after the date of the issuance of the retirement certificate.

Substitute Teachers.—Before the enactment of the retirement law for teachers employed in State institutions about one dozen teachers had been retired in the State normal institutions. Some of these teachers were eighty years of age and had devoted their lives to the teaching service in the State. The retirement law could not be made retroactive to meet their cases. The education law was therefore amended by providing that any teacher who had been retired in any of these institutions and who had taught a period of time in the State and in these institutions to have entitled him to retirement under the retirement law, had such teacher been in the service after the enactment of such retirement law, might be appointed as a substitute teacher in the position which such person last held in the service of the State and that the person thus appointed as substitute teacher should thereafter serve in that position for the remainder of his life. The purpose of this act was to accord to these teachers the right to receive the same annual compensation which such teachers would be receiving were they eligible to retirement and legally retired under the retirement law. The law therefore provided that these teachers should be entitled to receive two-thirds the salary they were receiving in the position when retired, if they were assigned to active work. If not assigned to active teaching in the institution such substitute teachers were to receive one-half of the salary received at the time of retirement, but in no case less than \$300 or more than \$1,000 annually.

REVIEW QUESTIONS

How many normal schools are there in the State? When was the first one established? Where? When was it made permanent? What change was made in this school in 1890? In 1914? How many persons have been graduated from these institutions? What is the annual attendance? What does it cost annually to maintain them? What is the value of their property? What is the object of these institutions? How are they established?

Who has general supervision of these schools? What local authority has supervision of these schools? How is the local board chosen? For what period? Who is the executive officer of the board? Of how many members does the local board consist? How may members of this board be removed? What is the board in charge of the State College for Teachers called? Of how many members does it consist? What are the duties of the local board in relation to establishing regulations? In submitting reports to Legislature? In caring for buildings and other property? In appointing special policemen? In supplying schools with equipments? In accepting gifts made to the schools for the State? In employing teachers? In dismissing teachers? State fully the powers and duties of the Commissioner of Education.

Who may be admitted to these schools? By whom are appointments made? By whom approved? What certificates of proficiency are accepted?

To what privileges are pupils entitled? Who may dismiss pupils? For what reasons? Upon what conditions are non-resident pupils admitted? Who are *non-resident* pupils? What amount is the State Comptroller authorized to pay each year for the support and education of Indian youth in these schools? How many of such youth may be educated from such fund? How are they chosen? What must be their age? How many years may they attend these schools? Who is made guardian of these pupils? What amount may be expended each year upon these pupils?

What courses of study do these schools have? Are these courses uniform? By whom are they prescribed? Who receive diplomas from these schools? By whom are such diplomas prepared? By whom are they signed? What privilege do such diplomas confer? For what may they be revoked?

How may tuition money be expended? Where must money derived from insurance be deposited? What application may be made of such money? What are academic departments in these schools? How were they created? Who may attend these departments? Can non-resident pupils be admitted? How may a teacher be removed? Give details of the case relating to the removal of Principal Hoose, of Cortland.

What was the first law authorizing the retirement of State civil employees enacted in this State? To whom does it apply? Name the various conditions under which such teachers may retire or be retired. By whom is a retirement certificate issued? When? What amount is to be paid a retired teacher? The maximum to a supervising official or a principal? To a teacher? The minimum amount? When is it payable? What are substitute teachers? By whom are they appointed? What compensation may they receive when employed? When not employed?

CHAPTER XXIX

TEACHERS' TRAINING CLASSES, TRAINING SCHOOLS

TEACHERS' TRAINING CLASSES

[Article 31]

Historical Sketch.—Training classes were organized in the academies as early as 1821. In 1827 the Legislature increased the amount of the literature fund, and one of the purposes for such increase as specified in the law was to “promote the training of teachers.” In 1834 an act was passed providing for the organization of Teachers' Training Classes. They were under the supervision of the Board of Regents from that year until 1889, when their supervision was transferred by an act of the Legislature to the State Superintendent of Public Instruction.

Object.—Teachers' Training Classes are organized to give instruction in the science and practice of common-school teaching to persons who desire to become teachers in the public schools of the State. These teachers are trained generally for the rural schools.

Institutions Which May Organize Them.—Academies and union free schools are the only institutions in which these training classes may be organized, and only such of these institutions as the Commissioner of Education designates. So many of the old academies have been merged with the public school system that these classes are now maintained in union free-school districts only.

How Such Institutions are Designated.—The Commissioner of Education has authority, by law, to adopt regulations by which institutions desiring the appointment to organize training classes must be governed. (As these regulations may be changed at any time by the Commissioner of Education they are not given in this work, but may be obtained from the University upon application.) The regulations are submitted by him to the Board of Regents for approval.

An institution desiring an appointment to instruct a class should obtain a blank application from the Commissioner of Education,

supply the information called for in such blank, and then file it in the State Department at Albany. This application, properly filled out, should be filed not later than May 1st, and appointments made on such applications are for the school year beginning on the first day of August following. From the applications filed the Commissioner of Education selects those institutions which are the best equipped for the work and the selection of which will distribute such classes throughout the supervisory districts of the State so as to give equal advantages, as far as possible, to the people of all parts of the State. The number of appointments which may be made for any year is a matter of discretion on the part of the Commissioner of Education, but cannot exceed 115.

Number of Pupils in Class.—No class can legally be formed with a membership of less than ten or more than twenty-five.

Period of Instruction.—A class cannot legally be organized for a shorter period than thirty-six weeks, and it is within the authority of the Commissioner of Education to require a longer period. Under this authority the Commissioner of Education requires the organization of a class to be for two terms of not less than eighteen nor more than twenty weeks each. The Commissioner has also established a regulation requiring the amount of instruction in these classes for each day to consist of five periods of forty-five minutes each in addition to the observation and practice teaching required.

Tuition.—No pupil admitted to these classes and remaining therein the period required under the regulations of the Commissioner of Education can lawfully be charged for such attendance. A non-resident pupil who is a member of a training class and who leaves such class within the prescribed period without the consent of the Commissioner of Education may be charged tuition by the school authorities of the district in which such training class is organized, at the rate charged non-resident pupils who are in attendance upon such school but who are not members of a training class.

Compensation Allowed.—An institution maintaining a training class of not less than ten pupils regularly organized and conforming to the regulations prescribed by the Commissioner of Education is entitled to receive \$700 from the State. The teacher employed for training class instructor may also be reported for a teachers' quota and thus entitle the district to an additional \$100. In case

a pupil has not been in attendance the required period, or a class has not be held for the full period of thirty-six weeks or there has been less than ten members in attendance upon such class, the Commissioner of Education may, for reasons satisfactory to himself, excuse such default and allow the institution in which such class was instructed equitable compensation proportionate to the number of pupils and period of instruction for the time such pupil was in actual attendance upon such training class. •

This money is paid by the State Comptroller on the certificate of the Commissioner of Education to the district entitled to receive it. The money is then the property of the district and may be used for school purposes as the district directs, except that such money cannot be paid as extra compensation to a teacher or teachers who receive a fixed salary.

Training Class Fund.—The amount of this fund is determined annually by the Legislature. The Legislature appropriated in 1916 \$90,000 from the free school fund for the support of these classes and training schools. Of this amount \$61,342.50 was paid for maintenance of training classes and the balance of \$28,657.50 to cities for support of training schools.

Duties of District Superintendents.—District superintendents are directed by law to visit and inspect training classes, to advise and assist principals in the organization and management of such classes, to conduct examinations for such classes as directed by the Commissioner of Education and to issue certificates in the form prescribed by the Commissioner of Education to those members of classes who have met the requirements of the law and the regulations of the Commissioner of Education.

Requirements for Admission.—To be eligible to be received in membership in a teachers' training class, an applicant must have completed the equivalent of at least three years' approved work in a high school. Announcement has been made that in 1918 the requirements for admission to such classes will be advanced to graduation from an approved four-year course.

Training-class Certificates.—A training-class certificate issued between January 1, 1896, and August 1, 1905, is valid for three years and entitles its holder to teach in any public school, during its validity, in the commissioner district for which it is issued. Upon its expiration it may be renewed for a period of five years without further examination. It must also be indorsed by any district su-

perintendent in the State, when presented to him for that purpose. These certificates issued after August 1, 1905, entitle their holders to teach in those schools only which do not maintain an academic department. A holder of a training class certificate who is also a high school graduate and who has taught successfully for two years since completing the training class course, may receive a form of training class certificate which will entitle her to teach in the grades of a school which maintains an academic department. Upon their expiration they may be renewed for a period of five years, provided the holder thereof has taught successfully three of the five years for which the certificate was issued.

Regulations for Classes.— To the Commissioner of Education is given the authority to establish regulations, for the instruction and management of training classes, to prescribe the course of study for such classes, and to determine the conditions upon which pupils will be admitted to such classes.

No person can receive a certificate who is under the age of eighteen years, and as pupils are required to be under instruction in a training class one year, candidates for membership in such classes must be at least seventeen years of age. (Complete regulations may be obtained upon application to the Commissioner of Education.)

CITY TRAINING SCHOOLS

[Section 551, also article 31]

Any city in the State, or any district of 5,000 or more population in the State, employing a superintendent of schools, may establish and maintain schools or classes for the professional training and instruction of teachers for not less than two years.

The law also provides that no person is eligible to membership in one of these training schools or classes who has not been graduated from a high school or academy having a three years' course of instruction approved by the Commissioner of Education, or from some other institution of equal or higher rank. The Commissioner of Education may prescribe higher qualifications and he has exercised this discretion by providing that all persons admitted to training schools shall have completed an approved four years' academic course. The course of study of such training schools or classes must also be approved by the Commissioner of Education.

The Commissioner of Education is also authorized to apportion to each city maintaining a training school or class under the pro-

visions of this law and the regulations which he prescribes the balance of the annual appropriation for training classes and training schools after apportioning the training classes the amount to which they are entitled. This balance must be apportioned ratably according to the aggregate attendance of the pupils regularly admitted to such training schools.

TEACHERS' INSTITUTES

[Article 30]

Origin.—The first teachers' institute in this State was held at Ithaca in April, 1843. It was in session for two weeks and was attended by twenty-eight teachers. The Superintendent of Tompkins county had charge of it and obtained assistants to conduct it. It received no aid from the State. The propriety of establishing this institute was decided upon in October, 1842, at the Tompkins County Teachers' Association. The work was successful and popular, and other counties soon followed the same plan. In 1847 the Legislature appropriated \$60 for the aid of each institute held in the State. As the Legislature makes no appropriation for institutes they have been discontinued. The conferences of teachers held by district superintendents supersedes the institute's work.

REVIEW QUESTIONS

How early were training classes maintained in the academies? What significance has the year 1827? What is the object in organizing training classes? When was the first act creating them passed? Who had supervision of them? What change was made in 1889? In what institutions may they be organized? By whom are these institutions designated? Explain how these appointments are made? What restrictions are placed on the number of pupils which may be in a class? What period of instruction is required? What period for each day? Are members of these classes charged tuition? What exception is there to this rule? What compensation is allowed an institution for maintaining one of these classes? How is this money obtained? What appropriations are made for this work? What equitable allowance may be apportioned for maintaining a training class? What are the general duties of a district superintendent in relation to these classes? Explain fully the value of a training class certificate. By whom are regulations governing training classes prescribed? What is the minimum age limit for admission to these classes? Explain the provisions of section 551 of the Education Law relating to training schools and classes in cities and villages employing a superintendent. Explain the method of appropriating State funds for these purposes.

CHAPTER XXX

TEACHERS' QUALIFICATIONS, CERTIFICATES, CONTRACTS, POWERS AND DUTIES

[Article 20]

Who Are Legally Qualified to Teach.—No person is legally qualified to teach in a public school in any supervisory district who does not hold either a State certificate, a college graduate's certificate, a normal school diploma, an equivalent certificate, a temporary license, a school commissioner's certificate or a district superintendent's certificate. To be legally qualified to teach in a city, or village of 5,000 population or more, a person must hold one of the first four certificates above named or a certificate issued by the school authorities of the city or village in which such person desires to contract.

Age of Teachers.—No person can legally be licensed to teach in a public school of this State who is not at least eighteen years of age.

State Certificates.—These certificates have been issued by either the State Superintendent of Public Instruction or the Commissioner of Education since 1875, upon examination only. Their holders are legally qualified to teach for life in the public schools of the State without further examination. Previous to 1875, these certificates were issued by the State Superintendent upon recommendation. No examinations were required. Such certificates confer the same rights upon those holding them as State certificates issued since 1875. Candidates must pass the required examinations and must have taught successfully for three years, to be eligible to receive one of these certificates.

College Certificates.—A certificate, valid for three years in all schools, will be issued to any graduate of a college approved by the State Commissioner of Education, who shall have completed therein a course in education under the regulations of the State

Education Department. On evidence of three years successful experience in teaching a permanent certificate will be issued.

A certificate, valid for two years, will be granted to a graduate of an approved course in an approved college. If during this term the holder shall pass an examination in psychology, history of education, the principles of education and methods of teaching, the certificate will be renewed for one year. This certificate entitles its holder to teach in high schools and in rural schools or in all schools except primary and grammar grades in cities and villages of 5,000 or more. At the end of three years' successful experience in teaching, a college graduate certificate will be issued, valid for life, and in any school or department of a school in the State.

Normal School Diplomas.— These diplomas are issued by the normal school authorities to students who have completed one of the prescribed courses of these schools. Such diplomas legally qualify those who hold them to teach for life in the public schools of the State without further examination.

Uniform Certificates.— These certificates were issued by school commissioners under such regulations as the Commissioner of Education prescribed.* This class of certificates now in force are issued by district superintendents and are rural school renewable certificates, training-class certificates, and special certificates known as drawing, kindergarten, vocal-music, elocution, commercial, manual training, physical training and domestic art or science.

First Grade.— Such of these certificates as have already been issued are valid for either five years or ten years and upon the expiration thereof they may be renewed, without examination, by a district superintendent, for either five years or ten years, according to the period of time for which such certificates were originally issued. This renewal depends, in the case of five-year certificates, upon the holder thereof having taught three years during the life of the certificate and, in the case of the ten-year certificates, upon the holder thereof having taught at least five years during the life of such certificate. These certificates are valid in the supervisory district for which they are issued and upon indorsement by the superintendent having jurisdiction they become valid in any supervisory district of the State.

* The regulations under which these certificates are issued may be obtained at any time from the Education Department.

Training Class.—These certificates are issued to those who complete one year's work in a training class under the supervision of the Education Department for three years and are renewable for five-year periods.

Training School Certificates.—These certificates are issued for three years by city superintendents to those who complete a course in a training school. They are renewable for ten years without examination, and district superintendents are required to indorse them.

Rural School Renewable Certificates.—These certificates are issued by district superintendents for a period of three years and are valid in school districts not maintaining academic departments. These certificates may be renewed by district superintendents for a period of ten years, provided the holder thereof has taught successfully for two of the three years for which the certificate was issued.

Drawing Certificates.—These certificates are issued to special teachers of drawing. They entitle those holding them to teach *drawing* only. A person who holds a drawing certificate and a general certificate of any grade may teach drawing and do general teaching also. Drawing certificates are valid for three years, and may be renewed without examination for a period of five years in the same manner as first-grade certificates are renewed.

Kindergarten Certificates.—The holders of these certificates are entitled to teach *kindergarten* only. The holder of a kindergarten certificate, however, who also holds another certificate permitting general teaching, is not debarred from teaching under such other certificate. These certificates are valid for three years, and may be renewed for five years.

Vocal-Music Certificates.—These certificates are issued without examination, are valid for three years, and may be renewed. A candidate to receive a certificate of this kind must show to the satisfaction of the Commissioner of Education that she has received sufficient professional training in vocal music and has had sufficient experience in teaching the subject, to be well qualified to receive such certificate and that she completed a high-school course or its equivalent.

Other Certificates.—In addition to the above-named certificates, an equivalent certificate may be issued to a person who has completed the equivalent of four years' academic training and two

years' professional training, but who may not possess a diploma which is indorsable under Regents rules.

There are also special certificates issued which authorize the holders thereof to teach elocution, domestic art, domestic science, physical training, manual training, stenography and typewriting, and commercial subjects. The requirement for one of these certificates is the completion of a four years' academic course or its equivalent, and a two years' professional course in the special line which the certificate covers. Vocational teachers' certificates are also issued under conditions specified in Regents rules.

Academic Certificates.—These certificates are issued by district superintendents for a period of three years, are limited to schools approved by district superintendents and are not valid in schools which maintain an academic department. But one certificate will be issued to the same person, and such certificate may be extended one year by eighteen credits earned in the examinations for State certificates or by a summer course, but may be indorsed by district superintendents. To receive such certificate a candidate must hold a Regents' academic diploma and must have completed a summer course at a normal school.

General Certificates.—A State certificate, a college-graduate certificate, a normal-school diploma, a training-school certificate, a professional certificate, a training-class certificate and a first-grade certificate, may be regarded as *general certificates* to distinguish them from special certificates. These general certificates state that their holders are properly qualified and are entitled to teach in the public schools. Such certificates do not restrict their holders to the teaching of any particular subject. A special certificate does so restrict, as, for instance, a drawing certificate entitles its holder to teach drawing only. The holder of any one of these general certificates may, therefore, teach any special subject, as drawing or kindergarten, without holding a special certificate.

Temporary Licenses.—The Commissioner of Education may, in his discretion, issue a temporary license, valid in a school district, a supervisory district or a city for a period not to exceed one year, whenever in his judgment it is necessary or expedient to do so.

Refusal to Issue Certificates.—A district superintendent may refuse to issue a certificate to a person who has passed the required examination, if a valid reason is assigned for such refusal. In

cases of this kind, the aggrieved party may appeal to the Commissioner of Education from the action of the superintendent in refusing to issue his certificate. If in the judgment of such commissioner the reasons given by the superintendent are valid, such superintendent will be sustained in his refusal to issue such certificate, but if the Commissioner of Education does not consider the superintendent's reasons valid, he will direct such superintendent to issue the certificate. Immoral character or lack of ability to govern or manage a school has been held to be a valid reason for withholding a certificate.

Superintendent Not Required to Place Certain Names on an Eligible List.—The board of education of New York city directed Superintendent Maxwell to place upon the eligible list for appointment as teachers of the graduating classes in elementary schools in all the boroughs except Brooklyn a large list of teachers holding licenses No. 1 and No. 2. Superintendent Maxwell brought an appeal to the Commissioner of Education praying for an order setting aside the resolution of the board of education which directed him to place the names in question upon the eligible lists. The legal right of Superintendent Maxwell to institute such appeal and the jurisdiction of the Commissioner of Education to hear the same was attacked in the courts by the board of education. The case went to the Court of Appeals and that body decided against the board of education on both of its contentions. The court held that Superintendent Maxwell could legally appeal to the Commissioner of Education for the determination of the questions involved and that it was the duty of the Commissioner of Education to hear and determine such appeal. (*People ex rel. Board of Education v. Finley*, 211 N. Y. 51-58.) After hearing the case Commissioner Finley held that the action of the board was illegal and ordered that such action be vacated. (*Maxwell v. Board of Education*, 3 State Dept. Reports, 539.)

Indorsement of Certificates by the Commissioner of Education.—The Commissioner of Education may in his discretion indorse State certificates issued in other States, or normal-school diplomas issued by the authorities of normal schools of other States. When such certificates are indorsed by the commissioner they have all the force and effect of State certificates and normal school diplomas issued by the proper authorities of this State.

Indorsement of Certificates by District Superintendents.—

District superintendents are required under the regulations prescribed by the Commissioner of Education to indorse *first grade*, *training-class* and *special* certificates issued under the Department regulations, or to assign valid reasons for refusing to do so. When such certificates are indorsed by another superintendent they have the same value in the district of the superintendent who indorsed them as in the supervisory district for which they were originally issued.

The Commissioner of Education holds that the holders of certificates which district superintendents are required under his regulations to indorse are legally qualified to contract to teach in any supervisory district in the State. They may legally contract in such districts before their certificates have been indorsed by the superintendent having jurisdiction. After making a contract in a supervisory district other than the one for which a certificate is valid, the holder of such certificate should present it for indorsement to the superintendent having jurisdiction over the district for which such contract was made. If a superintendent refuses to indorse such certificate, its holder may appeal from the action of the superintendent to the Commissioner of Education, who will determine upon the validity of the reasons assigned by the superintendent in refusing his indorsement. (No. 4888.)

Payment of Unqualified Teachers.—No part of the school moneys apportioned to a school district can be applied to the payment of the salary of an unqualified teacher. Nor can the salary of an unqualified teacher be collected by a tax upon the district. Any member of a board of education who applies such money or who directs or consents to the use of such money contrary to these provisions, is guilty of a misdemeanor. Any fine imposed therefor must be for the benefit of the common schools of the district or town.

The members of a board of education who knowingly employ an unqualified teacher are personally responsible to such teacher for her salary.

The members of a board of education who wilfully employ a teacher not legally qualified may also be removed from office by the Commissioner of Education.

Revocation of Certificates.—There are two authorities by either of whom teachers' certificates may be revoked, namely, the

Commissioner of Education and a district superintendent. The Commissioner of Education may revoke a certificate of any grade by whomsoever issued, for all reasons on which such action may be legally taken. By the provisions of the consolidated school law of 1894, school commissioners were given authority to revoke certificates on the ground of immoral conduct only and district superintendents now possess this power. On this ground a district superintendent may revoke a State certificate, a normal-school diploma, a college-graduates' certificate, or a certificate issued by any district superintendent in the State.

Whenever charges have been preferred to a district superintendent against the moral character of a teacher, it is the duty of the superintendent to furnish such teacher a copy of these charges and also to notify the teacher of a time and place at which a hearing will be given thereon. At this hearing the evidence in support of such charges must be presented, after which the accused is entitled to present evidence to disprove such charges. The accused is also entitled to be represented by counsel. When a certificate issued by the Commissioner of Education or a normal-school diploma is revoked by a superintendent on these grounds, the superintendent should immediately file with the Commissioner of Education a notice of such action.

A district superintendent cannot revoke a certificate for deficiency in scholarship or for inability to manage or govern a school. These are questions which the superintendent should have determined before issuing a certificate. The issuance of the certificate presupposes that proper investigation has been made in regard to the candidate's qualifications, and that such qualifications have been found to be satisfactory to the superintendent. The only authority to revoke a certificate on this ground is the Commissioner of Education.

There are two ways of disposing of an inefficient teacher. One way is to establish such inefficiency to the satisfaction of the Commissioner of Education, upon direct appeal for that purpose in due form. The Commissioner of Education will then revoke the certificate of such teacher. The second method is for the board of education to dismiss the teacher. Then, if the teacher appeals from the action of the board, the Commissioner of Education becomes the judge of the validity of the grounds upon which the board based its action. The charge of inefficiency must in this case, also, be

proved to the satisfaction of the Commissioner of Education. If proved, he will sustain the action of the board.

A certificate should not be revoked for immoral conduct which occurred previous to the issuance of the certificate if such conduct was known to the official who issued the certificate at the time he issued it.

Charges of immoral conduct against a teacher must be definite and specific so that the accused will know with just what acts he is charged. A superintendent has no power to place the holder of a certificate upon trial on general charges of immoral conduct.

The education law provides that certificates may be revoked for the following specific causes:

1. Failure to attend teachers' institute as required by law.
2. Failure to complete an agreement to teach a term of school without assigning a valid reason.
3. Immoral conduct.

In cases which have come before the Commissioner of Education upon appeal it has been held that certificates may be revoked for a teacher inflicting upon a pupil unreasonable, unnecessary, and cruel punishment, and also for intemperance upon the part of the teacher.

4. Wilful refusal to teach physiology and hygiene as required by law.

Superintendent Draper held that the severe penalty of revoking a certificate should not be imposed except for a cause sufficiently grave to justify a permanent prohibition of the right to teach. (No. 3572.)

In an appeal case decided by Superintendent Skinner the broad and reasonable principle was maintained that the general conduct of a teacher should be such as to inspire the fullest confidence of parents, and that when the acts and general conduct of a teacher were such as to produce the opposite result, such teacher was unfit to be permitted to remain in the teaching service. (No. 4644.)

The revocation of a certificate terminates any existing contract between the holder of such certificate and a board of education.

Who May Contract.—Any person can enter into contract to teach a public school who holds a legal certificate of qualification.

Contracts with Minors.—A minor may contract with a board of education to teach a public school. A minor making such contract must complete the term of contract, and for a failure to do

this without a valid reason, such minor's certificates may be revoked. Under the general law of contracts, a minor would not be responsible to a board of trustees for any damage claimed by reason of such minor's failing to comply with the terms of his contract.

Contracts with Married Women.—The domestic relations law gives married women the right to make contracts and to receive compensation thereon.

By Whom Employed.—Teachers must be employed by the board of education. A school district or town school meeting cannot direct what teachers shall be employed. This is a power to be exercised solely by the board of education.

Employment of Relatives.—In a union free-school district or township no person can be employed by a board of education, who is related by blood or marriage to any member of the board, except by a two-thirds vote of such board, and such vote should be entered upon the proceedings of the board.

Period of Employment.—A board of education cannot employ a teacher for a shorter period than ten weeks, except to fill out an unexpired term. Nor can a board of education contract with a teacher for more than one year in advance nor for a longer period of time than that for which such teacher's certificate of qualification is valid. All contracts must be for a specific time. A trustee cannot legally employ a teacher for "as long as her work is satisfactory."

A teacher employed contrary to these provisions has no claim against the district for salary, but she may under certain circumstances enforce the contract against those making such contract as individuals.

Form of Contract.—Boards of education are required to make and deliver to each teacher employed a *written* contract. This contract must be signed by the members of the board or some person duly authorized by the board.

This contract should show the agreement between the board and teacher in relation to the period of employment, the amount of compensation, and when the same shall be payable. It is also advisable to state in the contract whether the teacher is to be employed in a primary or grammar department, or to perform work along special lines, or to act as the principal.

A verbal contract the terms of which can be proved is binding and can be enforced. It is advisable, however, for boards to issue

written contracts and for teachers to insist on receiving them. The burden of establishing a verbal contract is generally on the teacher.

The contract must be made by a majority of the board and at a meeting regularly held. The contract is not legal if the consent of the members of the board is obtained separately and not at a meeting properly convened. A contract made by one member of the board when duly authorized to act as the agent of the board is binding.

When Compensation is Due.—Teachers can require boards to pay them as often at least as at the end of each calendar month of the term of employment. A contract cannot legally be made providing that a teacher shall not be paid until the end of the term. A contract providing that a teacher shall not be paid as often as at the end of each calendar month is not binding, and such teacher can insist upon payments being made at the end of each calendar month. There is no legal objection to a contract which provides that a teacher shall be paid oftener than at the end of each month.

(At the close of this chapter the form of contract prepared by the Education Department is given. Any other good form may be used.)

Orders on Supervisors and District Collector or Treasurer.—The law provides that boards may issue orders on the supervisor of the town and the treasurer of the board in payment of teachers' salaries. The law also makes it a misdemeanor for a board to issue an order on either of these officers unless there are sufficient funds in the hands of such officer to pay the same. Teachers are therefore required under the law to accept such orders properly issued in payment of their salaries. A teacher is not, however, required to accept a check from a supervisor or treasurer. These officers are required to honor such orders by paying the money thereon.

Payment When School is Closed.—Whenever school is closed by proper authorities during a term for which a teacher has been engaged and the teacher is thereby restrained or prevented from teaching, such teacher is entitled to full compensation for the time school is thus closed. Cases of this kind arise when a school is closed by the school authorities or the health authorities, owing to the prevalence of a contagious disease, or when the schoolhouse has been destroyed by fire or otherwise. Boards of education may direct that schools shall be closed for a day for funerals and other occasions, and in all such cases the teachers employed in such

schools are entitled to full compensation for such time. When a board refuses to pay a teacher for such time, the remedy for the teacher is to appeal in proper form to the Commissioner of Education.

Dismissal of Teachers.—A teacher cannot be dismissed during a term of employment except for neglect of duty, incapacity to teach, immoral conduct or other reasons which the Commissioner of Education would consider sufficient if brought before him upon appeal.

Whenever a teacher is dismissed by a board without sufficient cause, he should show his willingness to complete his contract and should make all reasonable efforts to do so. Failing in this, he is bound to seek employment elsewhere in order to mitigate the damages which may follow the breach of the contract. Under these circumstances a teacher would be entitled to full compensation for that portion of the term for which he was employed, but during which he did not teach owing to his being dismissed, or if he obtains employment elsewhere he is entitled to the difference in compensation. If a teacher acquiesces in the action of a board in dismissing him, he is not entitled to compensation for the portion of the term which he failed to teach on account of such dismissal.

A board may dismiss a teacher *without cause* upon paying such teacher full compensation for the whole period for which such teacher was employed.

The teacher's remedy in these cases is to be found either in the courts or in an appeal to the Commissioner of Education. The latter is preferable. The appeal should be for a reinstatement in the position from which the teacher was dismissed and for the payment of salary for the time the teacher was deprived from teaching.

Teacher's Absence to Become a Mother Not Sufficient Ground for Dismissal.—Several married women who are teachers in New York city were absent from duty for various periods to give birth to children. Charges were preferred against these teachers for neglect of duty. The formality of trials before the board of education was observed, the charges sustained and the teachers removed. Appeals were brought to the Commissioner of Education and that officer reversed the board of education in its action; held that the teachers were improperly removed and directed the board of education to reinstate such teachers. In determining one of these cases Commissioner Finley stated the following:

Married women teachers under the rules and practice of the board may be, and are, employed. Women teachers, under the decision of the Court of Appeals, may not be dismissed on account of marriage after entering the service. The question now asked is: May the board dismiss a married woman teacher for that which is the lawful, natural consequence of marriage and its social sanction? Such answer as the highest court gives to this question on its legal merits, is to be found in the following quotation from the dissenting opinion of the chief justice of the Court of Appeals in this very case: "Maternity requiring occasional absences at periods of childbirth is a natural consequence of the employment of potential mothers as teachers. If the Legislature had regarded this consequence as detrimental to the welfare of the schools, it would certainly have guarded against it by a prohibitory enactment. We find no such prohibition in the law or in any duly authorized rule or regulation of the board of education adopted pursuant to law. * * * The reasons for and against the employment of young mothers as public school teachers, set out in this record in the majority and minority reports of the committee on elementary schools of the board of education, are appropriate for the consideration of the law-making power, but do not concern the courts. The question which we are called upon to decide in this proceeding is whether the specific accusation upon which the relator has been dismissed from her position, to wit, 'absence for the purpose of bearing a child,' constitutes neglect of duty within the meaning of section 1093 of the Greater New York Charter. I agree with the learned judge who heard the case at the Special Term (Mr. Justice Seabury), that it does not." (People ex rel. Peixotto v. Board of Education, 212 N. Y. 463; Matter of Peixotto, 4 State Dept. Reports, 596.)

Dismissal for Concealment of Facts.—Where a teacher conceals a fact for the purpose of deceiving a board of education and the knowledge of such fact would have prevented her employment, such action on the part of a teacher is sufficient ground for dismissal. Where a rule of the board of education prohibited the employment of married women as teachers in the schools and a woman otherwise eligible to appointment but is married, purposely fails to disclose such fact because it would prevent her appointment, and accepts an appointment, is guilty of gross misconduct and may be dismissed. (Matter of Artman, 4 State Dept. Reports, 627.)

Dismissal for Marrying.— The Commissioner of Education has held that where a teacher makes a contract with the Board of Education for the year and such contract contains a provision to the effect that if the teacher married during the year, the contract should terminate, that the contract is valid and binding. This contract was made under an ordinance enacted by the council of the city pursuant to a law conferring that power upon the council. This teacher married during the year, but concealed this fact from the board of education. She continued to be known during the entire year under her maiden name. She signed the pay roll and received her salary monthly under such name. Later the facts in the case became known and charges were preferred against her and she was dismissed from the service. On an appeal to the Commissioner of Education, that officer held that the regulation was made under due authority of law, that the teacher voluntarily entered into a contract containing a special provision that such contract should be terminated in case she did marry. The Commissioner of Education declined to reinstate her and held that the school authorities acted wholly within their powers.

This case must be distinguished from the mother-teacher cases in New York city and other cases in that city. The teachers in New York city have had permanent tenure for years and the charter of the city specified four grounds upon which teachers might be dismissed, marrying during her employment as teacher was not enumerated as one of the four grounds of dismissal in New York city.

Record of Attendance.— It is the duty of teachers to keep a record of attendance of all pupils in the school register provided for that purpose. This record must be kept as required under the directions given in the register which is prepared under the supervision of the Commissioner of Education. It is important that these records shall be kept accurately, as they form the basis for apportioning part of the State school moneys and are also important in connection with the enforcement of the compulsory-attendance law.

Teachers are responsible for the safe-keeping of these records and should deliver them upon the close of their term of engagement to the clerk of the district or of the town board of education.

Verification of Records.— Teachers are required to make affidavit to the correctness of the register kept by them. This affidavit

may be taken by the district clerk and without charge. A teacher is not entitled to receive pay for any time taught until affidavit is made to the correctness of the register.

Rules and Regulations for Teachers.—A board may prescribe general rules for the management of the school. When such rules have been adopted, it is the duty of teachers to enforce them, and so far as they affect the teachers themselves to comply with them. The members of a board have no authority to enter the school-room to direct any of the work in progress or to direct the method of enforcing the rules of the board. This power rests solely with the teacher.

School Hours.—The school law does not define the hours that shall be devoted to school work. Custom has fixed the hours from 9 A. M. to 12 M. and from 1 P. M. to 4 P. M. An intermission of ten or fifteen minutes is given each half-day session. The board of trustees of a district may, however, designate other hours during which the school shall be in session. If these hours are reasonable, it is the duty of teachers to conduct school during the hours designated. If unreasonable hours are designated by a board, the Commissioner of Education may, upon appeal in due form, modify the hours fixed by such board.

Closing School.—A teacher has no authority to close school on any school day without the consent of the board. A teacher who does close school on a school day without such consent is guilty of a breach of contract, and may be dismissed by the board. The consent of a board is necessary in order to close school on a legal holiday on which school may be in session, or a general election day, or for the purpose of attending a teachers' conference, as required by law.

Janitor Work.—Neither teacher nor pupil can be compelled to do the janitor work of the school building. If the contract between the teacher and the board provides that the teacher shall perform this work, then it becomes the duty of the teacher to do it upon the ground that she has consented to do so by special agreement in her contract. A teacher who voluntarily does this work is not entitled to compensation for performing it.

Enforcement of Payments.—A teacher may bring an action in court for salary due him which has not been paid. This method is expensive and requires more time than teachers can generally give for the adjustment of such cases. The most inexpensive way and

the method by which adjustment can be reached in the shortest period of time is to appeal in due form to the Commissioner of Education, who has power to direct such payments and to enforce his decision.

Wearing Religious Garb.—There is no statute law in this State regulating the dress which shall be worn by teachers. The general influence upon the school system of teachers wearing a religious garb has been brought by appeal before the State Department in two cases. In March, 1887, on an appeal from the action of the board of education of Suspension Bridge, Superintendent Draper ruled as follows:

“The wearing of an unusual garb, worn exclusively by members of one religious sect and for the purpose of indicating membership in that sect by the teachers in a public school, constituted a sectarian influence, which ought not to be persisted in. The same may be said of the pupils addressing the teachers as ‘Sister Mary,’ ‘Sister Martha,’ etc. The conclusion is irresistible that these things may constitute a much stronger sectarian or denominational influence over the minds of children than the repetition of the Lord’s Prayer or the reading of the scriptures at the opening of the schools, and yet these things have been prohibited whenever objection has been offered by the rulings of this Department from the earliest days, because of the purpose enshrined in the hearts of the people and imbedded in the fundamental law of the State, that the public school system shall be kept altogether free from matters not essential to its primary purpose and dangerous to its harmony and efficiency.” (D. 3520.)

In deciding an appeal from the action of the Board of Education of West Troy School District (now Watervliet), involving the same point, Superintendent Skinner held as follows:

I therefore concur in the opinion of my predecessor in office, viz., that the teachers in the public schools of the State ought not to wear the distinctive garb of any religious denomination, order, sect, or society, but ought to dress in the usual costume worn by men and women generally; and that any other costume or usage is inimical to the best educational interests of the locality and should be discontinued by direction of the local school authorities whose duty it is to so administer the trusts reposed in them as to bring about the very best results with the least irritation, and in harmony with the spirit of the section of the organic law herein quoted.

The school best does this which avoids any reference directly or indirectly to any particular denomination, sect, or order, both in the construction of the buildings used for school purposes and in the dress worn by the teachers employed therein. To those not satisfied with this complete and actual severance of secular and religious instruction, the private school is open.

I also decide that it is the duty of the respondents to require the teachers

employed by them to discontinue the use in the public school room of the distinguishing dress or garb of the religious order to which they belong. (D. 4516.)

On May 15, 1897, Superintendent Skinner directed the Board of Education of Watervliet to notify and require all teachers employed in that city and wearing a religious garb to discontinue the use of such garb. The board was also directed, in case any such teacher should refuse or fail to comply with such requirement, to dismiss such teachers from employment in the public schools of the city of Watervliet. An order was also issued by the State Superintendent prohibiting the County Treasurer from paying the money apportioned to this city until directed to do so by the Superintendent. (D. 4546.)

The Court of Appeals held that the decision of the State Superintendent on this question was in effect a regulation which he was authorized to make and that the prohibitive order was in accord with the public policy of the State as declared in section 4, article 9 of the Constitution. (184 N. Y. 421.)

When Teacher's Illness Prevents Teaching.—Whenever a teacher under contract is unable to teach by reason of illness, such teacher should report the fact of such illness to the board. These officers may, if they desire, employ a substitute teacher during the illness of the regular teacher. Such regular teacher has no voice in determining who the substitute teacher shall be. This is a question to be determined solely by the board. If the illness of a teacher is continued for a long period, and there is not reasonable hope of sufficient recovery to enable such teacher to resume teaching, the board may inform such teacher that the contract has been declared void by her inability to perform her part of it. The board may then employ another teacher, and if the teacher dismissed feels aggrieved, she may appeal from the action of the board to the Commissioner of Education.

Authority Over Pupil.—There is no provision in the education law defining the authority which a teacher has over the pupils under his charge. The decisions of the courts and the rulings of the Commissioner of Education are, that the authority of the teacher over pupils is the same as that of a parent over a child, or as it is usually expressed, that a teacher stands *in loco parentis* to his pupils. The authority of the teacher begins at the time the pupil arrives

upon the school grounds, extends to the close of school, and continues until the pupil has left the school grounds. Cases may be cited in which the courts have held that the authority of the teacher extends beyond these limits, and that the pupil is accountable to the teacher for his conduct on the way to and returning from school, and even elsewhere, when such conduct has a direct bearing upon the discipline and general welfare of the school. These are not, however, recent decisions, and are not safe guides for teachers of the present time. A modern view of courts and of departments having judicial powers is to restrict the authority of the teacher over the pupil to the time between the arrival of the pupil upon the school grounds and his departure therefrom. The superintendents of this State and the Commissioner of Education have taken this view.

Superintendent Draper held that the authority of the teacher was not absolute during the noon recess, and that a pupil possesses a legal right to leave the school grounds during the noon recess with the consent of his parents. (D. 3698.) The right of a teacher to detain a pupil after school hours is questionable. Where a parent objects to such detention, a teacher should not insist upon it.

The authority of the teacher, however, is restricted by the rules and regulations of a board of education or a board of trustees. Where a board of education or a board of trustees has prescribed regulations to govern the discipline of the school it is the duty of teachers to keep within the bounds of such regulations.

Employment of Teachers in Cities and Districts of 5,000 Population.—On January 1, 1897, the provisions of chapter 1031 of the Laws of 1895 went into operation. These provisions are now incorporated in section 551 of the Education Law and relate to *primary* and *grammar school* teachers, but do not apply to teachers of any other grade. Teachers who were employed under a valid contract at the time this law went into operation may be continued in the service, even if they do not possess the qualifications prescribed by this law. But all teachers who have been employed since January 1, 1897, or who shall hereafter be employed in any primary or grammar school in a city or district of 5,000 or more in this State authorized to employ a superintendent of schools must possess one of the three following qualifications:

First.—Such teacher must hold a diploma issued by one of the normal schools of this State or a life State certificate issued by a

State Superintendent of Public Instruction or by the Commissioner of Education.

Second.— Such teacher must have had at least three years' experience in teaching and must possess a certificate issued by the proper local authorities.

Third.— Such teacher must have graduated from a high school or academy, or some other institution of equal or higher rank, having a course of study of at least three years, which is approved by the Commissioner of Education. Such teacher must also have completed subsequent to such graduation a course of not less than two years in a school or class for the professional training of teachers, and must hold a certificate issued by the proper local authorities. Such professional course must also be approved by the Commissioner of Education. These requirements now apply to districts of 5,000 population or more.

Suspension of Pupils.— There is no provision of law defining definitely the right to suspend a pupil from attendance upon school. This subject has been a question for the judicial consideration of State superintendents and of the courts. The present compulsory education act has so modified this question as to change materially former rulings relating thereto. We shall not therefore discuss these former rulings, but shall consider the question in its present aspect.

The board of education of a district or city is the proper authority to suspend pupils. A teacher does not possess this authority. A teacher may, for proper reasons, dismiss a pupil for the day, but not for a longer period. When a pupil is dismissed for a day, the teacher should at the close of school on such day report the facts in the case to the board. A board has the power to prescribe regulations for the government of the schools under their management, and such board may therefore prescribe regulations governing the suspension of pupils. If in such rules a board designates specific offenses for which a pupil may be suspended, and such rules also provide that for such offenses a teacher may suspend a pupil, the teacher has the power to enforce such rules and suspend the offender. State Superintendent Skinner held that pupils between the ages of eight and sixteen years who are required to attend upon instruction cannot be suspended from a public school for a longer period than ten days, unless the trustees provide a place at which

such pupil may receive instruction equivalent to that required under the compulsory education act.

Public opinion supports the theory that schools are established for the purpose of educating children, and that for grave causes only will school authorities be warranted in denying them the privilege of attendance thereon.

Expulsion of Pupils.—A board of education is the proper authority to expel a pupil from attendance upon a public school. A teacher does not possess this authority. When a pupil is lawfully expelled from a public school, and it is found that he is not receiving equivalent instruction elsewhere, he is to be proceeded against as an ungovernable child and committed to a truant school as provided in the compulsory attendance law.

A pupil having a contagious disease is not in a proper physical condition to be required to attend upon instruction, and may, during the continuance of such disease, be denied school privileges. To permit such pupil to continue in attendance upon school would expose other pupils to the dangers of such disease.

Incorrigible pupils and pupils whose moral senses are so depraved that their association with other pupils would contaminate such pupils may be expelled from public schools. If such pupils are between eight and sixteen years of age and are required to attend upon instruction under the compulsory attendance act, they should be proceeded against as disorderly persons.

Corporal Punishment.—There is no direct statute enactment regulating the right of a teacher to inflict corporal punishment. The Penal Law provides that it shall not be unlawful for any parent, guardian, master, teacher, or the authorized agent of a parent, in the exercise of a lawful authority, to restrain or correct his child, ward, apprentice, or scholar, provided the force or violence used is reasonable in manner and moderate in degree.

Under the provisions of the Education Law, a board of education of a union free-school district or of a town possesses the authority to prescribe rules and regulations for the government of a school. When a board of education adopts a regulation providing that corporal punishment shall not be inflicted, a teacher has no legal authority to resort to that mode of punishment. If a board of education should adopt a regulation of this kind, and a teacher, in violation thereof, should inflict corporal punishment upon a pupil,

such teacher would be subject to removal in the discretion of school authorities.

In the absence of a regulation of this kind having been adopted by a board, a teacher may, under the protection of the Penal Law, inflict corporal punishment, providing such punishment is reasonable in manner and moderate in degree. In inflicting this mode of punishment, a teacher should give full consideration to the gravity of the offense, the general effect of such offense upon the school, the temperament and the other physical conditions of the pupil. Cases of school discipline are rare in which teachers should finally resort to this extreme if not barbarous mode of punishment.

Control of School Papers, Athletics, etc.—It is within the legal power of school authorities to control the management and publication of papers published by the pupils of a school as a school paper. Commissioner Draper held in September, 1904, in the Monticello case, that a publication standing for a school and appealing to the constituency of that school on that ground is not a private or personal affair but a public affair, and as such is subject to the school authority of the district which it represents. The Commissioner also sustained the principal and the board of education in suspending a pupil in charge of a school paper who refused to be governed by the rules prescribed by the school authorities to govern the management of such paper. (See decision 5142—Report for 1905.) School authorities undoubtedly possess the same supervision over school organizations of a literary character or over those for the purpose of promoting athletics.

Constitutional Oath of Teachers.—Chapter 574, laws of 1917, requires every employee of the State, or any of its civil divisions, to take and file a constitutional oath. The language of the oath is so broad that it includes teachers, superintendents and other employees of the school system. The law provides that all employees of the State and each of its civil divisions, except the labor class, shall take and file such oath within thirty days after the act took effect. Failure of such employee to take and file such oath terminates his employment until such oath shall be taken and filed according to law. This law became effective May 19, 1917. All teachers and superintendents therefore who have not taken the constitutional oath should take it at once and such oath should be filed with the clerk of the board of education.

Provisions of Military Law Applicable to Teachers.—There

are certain provisions of the military law relating to officers or employees of the State, or of a municipal corporation or of any other political subdivision, who are members of the National Guard or Naval Militia, or who enter, or obligate themselves to enter, the federal military, naval or marine service, or who are required by draft or conscription to enter such service, or who hereafter enter such federal service as prescribed in the law, which apply to teachers and supervisory school officers. A teacher or superintendent who does enter such service shall not be required to suffer a loss or diminution of vacation or holiday privileges or be prejudiced by reason of such absence with reference to promotion or continuation in office or employment or reappointment to office. Such teacher or superintendent who hereafter voluntarily enters the federal naval or military or marine service must have the consent of the board of education of the city, town or union free-school district in which such teacher is employed in order to obtain the benefits of the act. While such teacher or superintendent is in the service and therefore absent he shall not be deprived of any of his privileges as such officer or employee because of his absence, and such teacher or superintendent shall be entitled to receive the excess of his salary over the salary which he receives from the United States government, and in no case shall the amount paid to such teacher or superintendent be less than \$25 a month in addition to what he receives from the United States government. If any such teacher or superintendent hereafter employed in a city, town or union free-school district does hereafter enlist as a member of the National Guard, or Naval Militia, or volunteer in the federal military, naval or marine service without the consent of the Governor he shall not be entitled to receive any portion of his salary as teacher or superintendent. Men who come within the classes specified in the act and who are drafted into military service are entitled to all the benefits of the act without the consent of the board of education or Governor.

FIRE DRILL

[Article 28]

Duty of Principal, etc.— Each principal or other person in charge of a public or private school or other educational institution, having more than 100 pupils, or maintained in a building two or more stories high, is required to instruct and train such pupils by

means of drills, so that in any sudden emergency these pupils may be able to leave the school building in the shortest possible time and without confusion or panic. These drills or dismissals must be held as often as at least once each month.

Penalty.—Any principal or other person failing to perform the duty required in above paragraph is guilty of a misdemeanor, punishable at the discretion of the court by a fine not exceeding \$50. Such fine must be paid to the pension fund of the local fire department where there is such a fund.

Duty of Board of Education.—The board of education of any city, district or town to which this act applies, or any other body having control of the schools to which this act applies, must have a copy of the act relating to fire drills printed in a manual or hand-book prepared for the guidance of teachers.

TEACHER'S CONTRACT

I,, of, county of, a duly qualified teacher, hereby contract with the board of education of District No., town of, county of, to teach in the public school of said district [or town] for the term of consecutive weeks, commencing, I....., at a weekly compensation of dollars and cents, payable at the end of each thirty days during the term of such employment.

And the board of education of said district [or town] hereby contracts to employ said teacher for said period at the said rate of compensation, payable at the times herein stated.

[Insert retirement fund.]

Said board of education reserves the right to provide for a vacation or vacations of not more than weeks in the aggregate during said term.

Dated, I.....

....., *Teacher.*

Board of Education of

By

.....

Chairman.

This contract should be executed in duplicate and one copy thereof given to the teacher and one retained by the board.

REVIEW QUESTIONS

What certificate must a teacher hold to be qualified to teach in a supervisory district? In a city? How old must a person be before being eligible to receive a teachers' certificate? How are State certificates issued? What

rights do they confer? Explain the difference between those issued previous to 1875 and those issued since that date. What are college graduates' certificates? What rights do they confer? Who are eligible to receive them? What are normal school diplomas? What rights do they confer? What are commissioners' uniform certificates? Name the certificates issued under the uniform system?

For what period were first grade certificates issued? For how long may they be renewed? Who are eligible to receive a training class certificate? Explain their value. Explain the value of drawing certificates. When may a drawing teacher teach drawing and do general teaching also? Explain the value of kindergarten certificates. Vocal music certificates. Elementary and academic certificates. When may a kindergarten teacher teach kindergarten and do general teaching also? A music teacher teach vocal music and do other teaching also? By whom may temporary licenses be issued? For how long?

Are superintendents required to issue certificates to candidates who have passed the required examination? What are valid reasons for refusing to do so? What remedy has the aggrieved party? When may a superintendent refuse to place names upon an eligible list? What certificates of qualification may the Commissioner of Education indorse? What is the effect of such indorsement? What certificates are superintendents required to indorse? When may a superintendent withhold his indorsement? What is the effect of such indorsement? What is the ruling of the Commissioner of Education in relation to the right of a teacher to contract who holds a certificate subject to indorsement? What is the remedy for a person holding such certificate when a superintendent refuses to indorse it? What moneys cannot be applied toward the payment of an unqualified teacher? If a trustee appropriates these moneys for the payment of an unqualified teacher, what is the penalty? Who are responsible to such teachers, when employed, for their salaries? What is the penalty for wilfully employing an unqualified teacher?

What authorities may revoke a teacher's certificate? What certificates may the Commissioner of Education revoke? A district superintendent? Upon what grounds may the Commissioner of Education revoke a certificate? For what *one* cause may a district superintendent revoke a certificate? What is the duty of a district superintendent when charges against the moral character of a teacher have been presented to him? To what rights is a teacher thus charged entitled at a hearing? Why cannot a district superintendent revoke a certificate for deficiency in scholarship or for inability to govern or manage a school? Who is the *only* authority to revoke a certificate upon these grounds? Explain fully each of two ways of disposing of an inefficient teacher.

Can a certificate be revoked for immoral conduct previous to the date of issuance of such certificate, and when such conduct was known to the official at the time he issued such certificate? What must be the character of charges preferred against a teacher? Can a teacher be placed on trial for general charges of immoral conduct? For what three causes does the education law provide teachers' certificates may be revoked? For what causes have State Superintendents held certificates may be revoked? What did Superin-

tendent Draper hold in relation to revoking a teacher's certificate? What effect does the revocation of a teacher's certificate have upon an existing contract?

Who may contract to teach? May a minor contract? Is a minor required to complete a term for which contract has been made? Under what penalty? Is a minor subject to suit for damages for failing to complete a contract? May married women contract?

By whom are teachers employed? Can a district meeting direct what teachers shall be employed? When may a town board of education employ a relative? Of a union free-school district? What is the shortest period for which a trustee may employ a teacher? What is the limitation as to the period of time for which a teacher may contract? May a trustee employ a teacher for "as long as her work is satisfactory?" What remedy has a teacher employed contrary to the above provisions?

What contract should be given to each teacher? By whom should it be signed? What essential facts should such contract contain? Is a verbal contract binding? Must a contract be made at a meeting of a board? When is a contract made by one member of a board of two or more trustees binding? How often can teachers insist upon receiving their pay? Is a contract providing that the salary of a teacher shall not be paid until at the end of the term legal? If such contract is made, how often may a teacher insist upon being paid? May a legal contract be made providing a teacher shall be paid oftener than monthly?

Upon what officers may boards issue orders in payment of teachers' salaries? Why these officers? May they issue orders for an amount greater than that held by such officers? What is the penalty for a violation of this provision of law? Under what conditions may teachers receive compensation for time during which school is closed? Give illustrations coming within these provisions. What is the teacher's remedy in cases of this kind when trustees refuse to pay for such time?

What is the law regulating the dismissal of teachers? What reasons have been held to be sufficient? What should a teacher do when dismissed by a board in order to be entitled to his compensation for the full period of his contract? What would be the legal effect if a teacher should acquiesce in such dismissal? When may a board dismiss a teacher without cause? In these cases in what two ways may a teacher seek relief? Which is preferable? What relief may be requested? What is the rule in relation to absence to become a mother? In concealing certain facts? When may a woman teacher be dismissed for marrying?

What record of attendance are teachers required to keep? How must such record be kept? Why is this an important record? Who is responsible for the safe-keeping of the register? To whom should the register be delivered after a term of school is closed? What records must the teacher verify? Who may administer this oath? When must a teacher verify this record?

Who is the proper authority to prescribe rules for the government of a school? When such rules have been adopted what is the duty of the teacher in relation thereto? May a member of the board enter a schoolroom and direct the enforcement of such rules?

Does the law define the school hours? What are the usual hours? May other hours be fixed? Who possesses the authority to fix these hours? If unreasonable hours are designated what is the relief? May a teacher close a school for any period without the approval of the trustees? What is the effect upon contract of closing school without such consent? Is this consent necessary to close school on a legal holiday or for attending an institute?

Is a teacher required to do the janitor work? A pupil? When may a teacher be required to do this work? Why? Is a teacher entitled to compensation for voluntarily performing this work? In what way may a teacher bring an action in a court to enforce payment of salary? Why are these methods objectionable? What other method may be pursued? Why is this preferable?

Is there a provision of law regulating the garb which shall be worn by teachers? When and in what case was this question passed upon by Superintendent Draper? What was his decision in the matter? When did Superintendent Skinner pass upon the question? In what case? What was his decision? What further action in this case did Superintendent Skinner take on May 15, 1897?

When a teacher under contract is unable to teach by reason of illness what should she do? Who may select a substitute teacher, if one is desired, during the illness of a teacher? Has the regular teacher any voice in the employment of such substitute? Under what conditions, in a case of this kind, may a trustee declare a teacher's contract void? What remedy has a teacher for unfair treatment in such cases?

What is the general ruling in relation to the authority of a teacher over a pupil? Define the limits of a teacher's authority. What extreme views have courts taken on this question? Are these decisions safe guides for the present? What is the modern view of courts and of judicial departments upon this question? What has been the uniform ruling of the State Department? Explain the ruling of Superintendent Draper in relation to the authority of a teacher over a pupil during the noon recess. The right of a teacher to retain pupils after the regular school hours. How is the authority of a teacher restricted in this matter? What legal effect has the regulations of a board of trustees upon the teacher's power?

To what schools do the provisions of Section 551 of the education law relate? How did this law effect those who were employed at the time it went into operation? When did it go into operation? Name each of the three qualifications, one of which must be possessed to be employed in a school under this law?

By what authority has the subject of suspensions of pupils been considered? What has changed rulings on this subject? Who is the proper authority to suspend a pupil? May a teacher dismiss a pupil? For what period? What should a teacher do in such case? When may a teacher suspend a pupil? What is the ruling on suspending pupils between 8 and 16 years of age? What is public opinion on the theory of the establishment of schools?

Who possesses the authority to expel a pupil? How does the compulsory attendance act effect the expulsion of pupils? Why may a pupil having

contagious disease be expelled? What other pupils may be expelled? How should they be proceeded against? Discuss the right of a teacher to inflict corporal punishment. What oath are all teachers and superintendents required to take? What effect has the failure to take such oath? How is the salary of a superintendent or teacher effected who enters the military, naval or marine service? Before entering such service, whose approval is necessary if such superintendent or teacher is a resident of a city? Of a union free-school district or town? What are the rights of a superintendent or teacher who enters such service without this approval? What is the duty of principals in relation to fire drills? What is the penalty for violation of this law? What is the general rule controlling school papers, athletics, school societies, etc.?

CHAPTER XXXI

RETIREMENT OF TEACHERS

[Article 43b]

The Legislature of 1911 enacted a retirement law applicable to the teachers of the State and its essential provisions are as follows:

1. It applies to all teachers and principals employed in the public schools of the cities and school districts of the State which were not at the time such law was enacted subject to the provisions of a retirement law. It also applies to the superintendents employed in such cities and in union free-school districts having a population of five thousand or more and to district superintendents.

2. It provides for a State Teachers Retirement Board to consist of five members. The members are appointed by the Commissioner of Education. One of such members at the time of his appointment must be a superintendent of schools in a city or district; one, an academic principal; one, a teacher employed in an elementary school; and one a woman teacher. The regular term of a member is five years. The members of the first board were appointed for one, two, three, four and five years, respectively, from January 1, 1912. Vacancies are filled by the Commissioner of Education for the unexpired terms. A member may be removed by the Commissioner of Education for cause on notice of charges and after a hearing. A member of the board may also resign. Members serve without pay but are entitled to expenses incurred in the performance of their duties.

3. The annual meeting of the board is held on the second Wednesday in January and the board must hold regular meetings at least once in each three months. The board elects a secretary at a salary approved by the Commissioner of Education, but which cannot be in excess of \$2,000. The board and its secretary have been assigned a room in the Education Building.

4. The board has general charge of the administration of the retirement law. It prepares all necessary blanks and conducts any

inquiry or investigation into the records of applicants for retirement which may be necessary to determine the rights of such applicants. It gives instruction to boards of education in relation to the duty of such boards under the law. It issues warrants in payment of annuities and is empowered to prescribe regulations to aid in the enforcement of the provisions of the law.

5. The State Treasurer is the custodian of the retirement fund, which he is required to deposit in banks or trust companies, and the law regulating the deposit of State funds applies to the deposit of the retirement fund. The retirement board is required to determine from time to time the amount of such fund which shall be permanently invested. The board is also required to determine the securities in which such fund shall be invested. The fund can be invested only in those securities in which the trustees of savings banks may invest the deposits of such banks.

6. The retirement fund consists of money obtained from the following sources:

a Contributions made by teachers, school districts, towns and cities as required under the retirement law.

b The income derived from the investment of the retirement fund.

c Donations, legacies, gifts, bequests, etc.

d Appropriations made by the State Legislature.

7. All teachers employed in cities or school districts to which the retirement law applies, who have entered into contracts since August 1, 1911, and all teachers in such cities or districts or in a town who may hereafter enter into contracts, shall pay into the teachers retirement fund 1 per cent annually of their salaries under such contracts. Each city and school district is also required to pay into this fund a sum equal to 1 per cent of the aggregate amount paid by such city, town or district in salaries to its teachers. Each city, town or district — the employer — pays an amount equal to that which is paid by the teachers — the employees — into this State fund. Any teacher within such cities or districts who entered into contract prior to August 1, 1911, had the privilege of contributing 1 per cent annually of the salary paid pursuant to such contract and thereupon became entitled to all the benefits conferred by the law. Boards of education are required to deduct from the salaries of teachers the amount which such teachers are required to pay into the retirement fund. The amount thus deducted should be

paid into the treasury of the city, town or district and credited to the school fund. This money is not paid into the State treasury. The Commissioner of Education, in apportioning the State funds, will deduct an amount equal to 2 per cent of the salaries of the teachers employed in a city, town or school district from the public money to which such city, town or district is entitled, and will issue a warrant from the State Comptroller for the payment into the State treasury, to be credited to the State teachers retirement fund, the amount which the several cities, towns, school districts and the teachers employed therein are required to pay into such fund. The amount of money which a city, town or district will receive will be less the amount which a city, town or district and its teachers are required to pay into the State teachers retirement fund. The result of this arrangement is that the teacher contributes 1 per cent and the district 1 per cent of such teacher's salary to the credit of the State teachers retirement fund.

8. In a city or in a union free-school district a teacher may be retired either upon her own application or the application of her board of education. If a teacher in a city, union free-school district or town is entitled to be retired and has become inefficient and such teacher does not make application to be retired, her board of education may file an application for her retirement. The request for retirement must be in the form prescribed by the retirement board, which will provide blanks for that purpose. Such proof as the board may require to show that an applicant has satisfied the requirements for retirement must be filed with the application. The retirement board must pass upon each request and determine whether or not it shall be granted. There are two conditions on which teachers may be retired. These are as follows:

a A teacher must have taught in public schools for a period of twenty-five years. Such teacher must have taught the last fifteen of such twenty-five years in the public schools of those districts, towns or cities to which this act applies. The law does not exact even that the first ten years of such service shall have been in the State. A teacher who meets these requirements and who has paid the required amount into the retirement fund may be retired.

b A teacher who has become physically or mentally incapacitated may be retired by the board if she shows that she has taught in public schools for fifteen years and that the last nine years of such period of fifteen years she taught in the schools of the cities, towns

or districts to which this law applies. Where a teacher submits sufficient proof with her application to show that she satisfies these conditions, the board has discretion to grant the application for retirement.

The question is raised as to the discretion of the board in cases of teachers who have complied with the provisions of section 1109 by showing the required period of service, etc. The law does not provide nor does the language of the law contemplate that all teachers upon rendering twenty-five years of service shall be retired. The law states that a teacher who satisfies the conditions imposed by subdivision 1 of section 1109 *shall be entitled to an annuity* upon her retirement from actual service as such teacher. The law does not read that a teacher satisfying such conditions *shall be retired*, but it reads that *upon retirement she shall receive an annuity*. The same provision is found in subdivision 2 of the same section. This provision of law reads that a teacher satisfying the conditions imposed therein *may be retired* and *upon her retirement* shall receive an annuity, etc. Then again subdivision 3 provides that, "The board shall pass upon all requests for retirement, and shall determine whether such requests should be granted." This language clearly implies a discretion on the part of the board.

The retirement board will retire teachers after twenty-five years of service or more, provided good reason exists for such action. It will be necessary to establish to the satisfaction of this board that the physical condition of the teacher is such that she should be retired or that, because of her inefficiency at this period of life, it will be for the good of the school in which she is teaching that she should be retired. The law itself contains the reasonable provision that, if a teacher has become physically or mentally incapacitated after fifteen years of service, she may on her application be retired. In other words, teachers will not be retired until they have become inefficient or incapacitated and their retirement is necessary for the efficiency of the service. If the retirement board should exercise an unwise discretion in retiring teachers, the law contains the requisite remedy by providing for appeal under the usual procedure to the Commissioner of Education, to review the action of the retirement board. This proceeding could be instituted by any teacher within the territory to which the law applies or by any taxpayer of the State.

9. The annuity to which a teacher upon retirement shall be enti-

tled is one-half of her average annual salary for the period of five years prior to the time of her retirement. An annuity in no case, however, shall exceed the sum of six hundred dollars. To be entitled to an annuity, a teacher must have paid into the retirement fund 50 per cent of her annuity. If this amount has not been paid at the time of her retirement, she may make a cash payment which, when added to her previous contributions to such fund, will equal 50 per cent of her annuity. If a teacher is not able to make such cash payment, the payment of her annuity may be withheld and credited to her payments until the portion of the annuity withheld shall equal the required 50 per cent of her annuity. Annuities will be paid quarterly and will date from the date on which the retirement board gives favorable action on an application.

10. Section 1109-b specifically provides that this law shall not apply to any county, city or district in which the teachers in the public schools are required or authorized to contribute to a teachers retirement fund, except upon a petition of two-thirds of all the teachers of such city or district, which petition must be duly signed and verified. In other words, if the teachers of Rochester desire to come under this act, two-thirds of all the teachers of such city must sign a petition duly verified and file such petition with the retirement board. But this section further provides that upon any local retirement organization taking such action, the organization or society created under the local act shall be dissolved and discontinued. If the teachers of the city of Rochester should therefore come under the law, their local retirement organization becomes dissolved and discontinued. The funds in their local treasury would therefore be paid into the State treasury and credited to the State retirement fund for the purpose of meeting annuities which have already accrued under the provisions of the Rochester act.

Law Constitutional.—The Appellate Division of the Third Department of the Supreme Court has determined that the law providing for a teachers retirement fund is constitutional. The teachers of the city of Yonkers voted under the provisions of the State teachers retirement law to abandon the local city retirement law and come under the provisions of the State law. The State retirement fund board took such formal action as the law required to accept the teachers of Yonkers, but the officials of that city in charge of the local fund declined to pay over to the State the local funds, as required under the State law. The Appellate Division

also held that the provision of the State law to the effect that whenever two-thirds of the teachers of any county, city or district having a local or special act petition to come under the provisions of the general act, the State board may issue an order dissolving the local organization and bringing all the teachers of such county, city or district within the operation of the general law, is constitutional. (*Bristol and Others v. Board of Trustees of Yonkers Public School Teachers Retirement Fund, etc.*, 173 App. Div. 545.)

REVIEW QUESTIONS

To what teachers does this law apply? To what superintendents? What board is created? By whom appointed? Describe the composition of the board. How are vacancies filled? How may members be removed? When is the annual meeting held? What are the general duties of such board? Who is custodian of the retirement fund? How must it be deposited? Who determines upon such securities? Of what does the fund consist? What teachers are required to come under this law? What teachers may? Explain how contributions are paid. How may a teacher be retired in a union free-school district? In a common-school district? Who determines upon the retirement of a teacher? Explain each condition upon which a teacher may be retired. What may be said upon the discretion of the board to retire a teacher? What relief has a teacher from the unjust action of the board? What annuity may a teacher receive? To what sections of the State does not this law apply? How may the teachers of such sections come under the law? What decision has been rendered by the courts on this law?

CHAPTER XXXII

CITY SCHOOL SYSTEMS

[Chapter 786, Laws of 1917]

General Statement.— This chapter is the first general law enacted in New York State for the regulation and management of the school systems of the several cities of the State. By this law about two hundred fifty special laws, including chapters in city charters, and containing about six hundred pages of printed matter, were repealed. One act of twenty-four pages was substituted for these several special laws. The provisions of this law apply to each city in the State.

Board of Education.— Under the terms of this law a board of education is established for each city of the State. The educational affairs of the city are placed under the control and management of such board. The name under which these officers are known is members of the board of education.

Qualifications of Members.— No person is legally qualified to hold the office of member of a board of education in a city who is not a citizen of the United States and who has not been a resident of the city for which he is chosen for a period of at least three years immediately preceding the date of his election or appointment.

Number of Members.— 1. A board of education in a city must contain at least three members and may not contain more than nine members. Each city having a board of education of more than three members and not more than nine members is to continue to have such number of members on its board as such board contained immediately preceding the date when this law became operative. This law went into effect June 8, 1917.

2. The law provides that in a city of one million population or more the board of education shall consist of seven members. There is but one such city in this State, namely, New York. The board of education in such city, at the time the act went into effect, contained forty-six members. By the provisions of this law the number of members on that board is reduced to seven.

3. In a city in which the number of members exceed nine, such number must be reduced to nine. In a city in which such members are appointed by the mayor, that official should have appointed a new board of nine as soon as the new law went into effect. In a city in which such members are elected no new members should be elected as vacancies occur until the number is reduced to less than nine.

4. Whenever a new city is created by the Legislature the board of education, or boards of education, in charge of the educational affairs of the several districts, which are included within the limits of such city, are to continue to operate the schools until the first Tuesday in May following the date on which such city is established. Thereafter such city is to have a board of education to consist of five members.

How Chosen.— It was not the purpose of this law to change in any way the method by which members of boards of education were chosen in the several cities of the State at the time the law became operative. The law provided therefore that in each city the method by which members of a board of education had been chosen should be continued in that city. Members of boards of education in the several cities of the State were chosen by the following methods:

1. By appointment by the mayor.
2. By election at a special school election held at a time other than the general or municipal election.
3. By election held at the time of either the general or the municipal election.
4. By election in certain union free-school districts at the time of the annual school election held on the first Tuesday in August.
5. In one city, Buffalo, the members of the board of education are to be appointed by the mayor and confirmed by the council.

In all cities except New York the members of the board of education are to be chosen from the city at large. Provision is made by which in the city of New York two members shall be chosen from the borough of Manhattan, two members from the borough of Brooklyn and one each from the boroughs of The Bronx, Queens and Richmond.

Term of Office — When Appointed or Elected.— 1. The full term of office of a member of a board of education in the city of New York is seven years; in the cities of Albany, Oswego and Troy, six years; and in all other cities of the State, five years.

2. The first board of education appointed under the provisions of this act, in the city of New York, is to be appointed on the first Wednesday in January, 1918. In appointing these members the mayor shall designate them for terms so that the term of one member shall expire on the first Tuesday in May of each of the following years: 1919, 1920, 1921, 1922, 1923, 1924, and 1925. In 1919 and thereafter the mayor will annually appoint one member of the board of education for a term of seven years.

3. The first board of education to be appointed in the city of Buffalo under the provisions of this law is to be appointed on January 15, 1918, and these members are appointed so that they shall serve for terms of one, two, three, four, and five years respectively from the first Tuesday in May, 1917.

4. In the cities in which the number of members on the board exceeded nine, and the members of such boards are appointed by the mayor, the terms of all such members terminated on June 8, 1917, and the mayor of the city was required to appoint a new board of nine members. In appointing such members the mayor was required to name two to serve until the first Tuesday in May, 1918; two to serve until the first Tuesday of May, 1919; two to serve until the first Tuesday in May, 1920; two to serve until the first Tuesday in May, 1921; and one to serve until the first Tuesday in May, 1922. As their terms expire the mayor shall fill the vacancies caused thereby for terms of five years.

5. In the cities in which the number of members on a board of education exceeds nine and the members of such board are chosen by the people at an election, no vacancy should be filled until the number of members on such board is less than nine. When the term for which a member of a board of education was elected prior to June 8, 1917, expires, such member continues to serve until his successor is chosen and such successor cannot be chosen until the first Tuesday in May following.

Vacancies.— 1. When a vacancy occurs other than by expiration of term in a city in which the members of a board of education are elected by the people the mayor of the city should fill such vacancy by appointment until the next election occurs at which members of a board of education may be elected. Such vacancy should then be filled for the balance of the unexpired term.

2. When such a vacancy occurs in a city in which the members

of such board are appointed by the mayor, such vacancy should be filled by the mayor for the unexpired portion of such term.

Meetings of Board.— 1. The annual meeting of each board of education must be held on the second Tuesday in May.

2. Regular meetings of the board must be held at stated times fixed by the board. These meetings must be held as often at least as once each month. The board may determine by regulation to hold such meetings oftener.

3. The board may hold special meetings and must prescribe a method by which such meetings may be called. Special meetings must, therefore, be called by the method prescribed by the board.

Powers and Duties of City Board of Education.— The law confers specific powers and duties upon the board of education. Such board is the governing body of the schools of a city. The intention of the law is to confer upon a board such broad general powers that it may do anything necessary to provide the educational facilities for the city which the people of such city desire. The law confers the following general powers upon a board of education:

1. To perform any duty imposed upon boards of education or trustees of common schools under this chapter or other statutes, or the regulations of The University of the State of New York or the Commissioner of Education so far as they may be applicable to the school or other educational affairs of a city, and not inconsistent with the provisions of this article.

2. To create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; to appoint a superintendent of schools, such associate, district and other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, auditors, attendance officers, secretaries, clerks, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and to determine their duties except as otherwise provided herein.

3. To have the care, custody, control and safekeeping of all school property or other property of the city used for educational, social

or recreational work and not specifically placed by law under the control of some other body or officer, and to prescribe rules and regulations for the preservation of such property.

4. To purchase and furnish such apparatus, maps, globes, books, furniture and other equipment and supplies as may be necessary for the proper and efficient management of the schools and other educational, social and recreational activities and interests under its management and control. To provide textbooks or other supplies to all the children attending the schools of such cities in which free textbooks or other supplies are lawfully provided prior to the time this act goes into effect.

5. To establish and maintain such free elementary schools, high schools, training schools, vocational and industrial schools, kindergartens, technical schools, night schools, part-time or continuation schools, vacation schools, schools for adults, open air schools, schools for the mentally and physically defective children or such other schools or classes as such board shall deem necessary to meet the needs and demands of the city.

6. To establish and maintain libraries which may be open to the public, to organize and maintain public lecture courses, and to establish and equip playgrounds, recreation centers, social centers, and reading rooms from such funds as the education law or other statutes authorize and the State appropriates for such purposes, and from such other funds as may be provided therefor from local taxation or other sources.

7. To authorize the general courses of study which shall be given in the schools and to approve the content of such courses before they become operative.

8. To authorize and determine the textbooks to be used in the schools under its jurisdiction, but in a city having a board of superintendents, the books thus authorized and determined shall be from lists recommended by such board.

9. To prescribe such regulations and by-laws as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board and the transaction of its business affairs, for the general management, operation, control, maintenance and discipline of the schools, and of all other educational, social or recreational activities and other interests under its charge or direction.

10. To perform such other duties and possess such other powers

as may be required to administer the affairs placed under its control and management, to execute all powers vested in it, and to promote the best interests of the schools and other activities committed to its care.

It will be observed that under the foregoing provisions of law a board of education has very broad powers. It may create such organization for the management and operation of the school system as in the judgment of the board may be necessary. It may change such organization from time to time by abolishing unnecessary positions, by creating new positions and by consolidating positions, boards, bureaus, etc.

Contracts.— 1. A board of education is prohibited from making a contract for the construction, alteration, or remodeling of a school building, or for the purchase of sites, furniture, or equipment unless such board shall have duly advertised for estimates. The contract in each case must be awarded by the board of education to the lowest responsible bidder furnishing such security as the board of education may require for the proper performance of the terms of such contract.

2. A board of education is also prohibited from incurring a liability or an expense chargeable against the funds under its control or the city, for any purpose whatever, in excess of the amount appropriated or available therefor or otherwise authorized by law.

Local School Boards.— 1. New York city was divided into local school board districts under the provisions of its charter. Such districts are continued under the present general law. No other city has such districts. The board of education is given the power to modify the boundaries of such districts, to consolidate two or more districts and to establish new districts.

2. Each of these districts has a local school board of five members. The members of these boards are appointed by the president of the borough in which the district is located. In addition to these five members the board of education must designate one member of the board of education as member of such board. The superintendent of schools must assign one district superintendent to advise such boards.

3. The full term of a member of a local board is five years. Members in office on June 8, 1917, when the city law went into effect, serve out their terms of office. A vacancy on such board is filled by the borough president for the unexpired term.

4. The law specifically confers upon these boards the following duties:

1. To visit the schools in its district at least once each quarter.
2. To make recommendations to the board of education with respect to matters affecting the interests of the schools.
3. To transfer teachers from school to school, within the jurisdiction of a local board district under such regulations as the board of education may prescribe.
4. To excuse absences of teachers under regulations prescribed by the board of education.
5. To hear charges against teachers or principals as the regulations of the board of education prescribes.
6. To perform such other duties as the regulations of the board of education impose upon such local boards.
7. To prescribe by-laws regulating the exercise of the powers and duties of such local district board. Such by-laws, of course, must not conflict with the by-laws of the board of education.
8. To elect a secretary and to prescribe his duties.

The board of education is required to provide for the expenses of such local board and a place for its meetings.

The secretary of such board may administer oaths and take affidavits in all matters pertaining to the affairs of the schools in his district in which a local board has power to act. For such purpose a secretary possesses the power of a commissioner of deeds. The secretary is entitled to receive no fee or other emolument.

SUPERINTENDENT OF SCHOOLS — BOARD OF SUPERINTENDENTS

Term.— 1. The law fixes a term of office for superintendents in cities of the first class only. Under former statutes the superintendents of the three cities of the first class were the only superintendents in the State who had a fixed term. In one of these cities, the term was four years, in another, five years, and in the third, six years. In the present statute the term of the superintendent in a city of this class is fixed for a period of six years from the date of his appointment. The first class cities are New York, Buffalo, and Rochester.

2. The term of office of a superintendent in each of the other cities of the State is during the pleasure of the board of education.

3. Each superintendent in office when the new law went into effect is to serve out the term for which he was chosen.

Removal.—A superintendent in the three cities for which a fixed term is prescribed may be removed for cause only. In such cases definite charges must be preferred against the superintendent; a hearing must be accorded him with the right to appear by counsel and witnesses. The action of a board in removing a superintendent before the expiration of his term of office is reviewable on appeal, by the Commissioner of Education. In each of the other cities a superintendent may be removed at the pleasure of the board.

Resignation.—A superintendent may vacate his position by filing his written resignation with the board of education.

Eligibility.—No person is eligible to the position of superintendent of schools who does not possess one of the following qualifications:

1. A graduate of a college or university approved by The University of the State of New York, and has had at least five years' successful experience in the teaching or in the supervision of public schools since graduation; or

2. A holder of a superintendent's certificate issued by the commissioner of education under regulations prescribed by the Regents of The University of the State of New York, and has had at least ten years' successful experience in teaching, or in public school administration, or equivalent educational experience approved by the Commissioner of Education.

Powers and Duties.—The present law is the first general act in this State which confers definite professional powers upon a city superintendent of schools. The law provides that a superintendent shall perform certain fixed functions, and no other official in the school system may perform these duties. Very many of these duties may be amplified under regulations of the board of education. The law specifically provides that a superintendent of schools shall exercise the powers which are conferred upon him, subject to the by-laws of the board. This provision of law may not be construed to mean that a board of education may defeat the purpose of the law by prescribing unreasonable rules, which shall nullify the law, or prevent the superintendent from performing those official functions which are generally recognized in educational work to be the functions of a city superintendent and which the law intended such officer should exercise. The board of education may, however,

enact any reasonable by-law to make more effective the work of the city superintendent and to enable that officer to perform the duties in behalf of the school system which the enactment of this law intended the city superintendent should perform.

The law confers the following powers and duties upon the superintendent:

1. To enforce all provisions of law and all rules and regulations relating to the management of the schools and other educational, social and recreational activities under the direction of the board of education, to be the chief executive officer of such board and the educational system, and to have a seat in the board of education and the right to speak on all matters before the board, but not to vote.

2. To prepare the content of each course of study authorized by the board of education, but in a city having a board of superintendents the content of each of such courses shall be prepared and recommended by the board of superintendents, submitted to the board of education for its approval and, when thus approved, the superintendent or board of superintendents, as the case may be, shall cause such courses of study to be used in the grades, classes and schools for which they are authorized.

3. To recommend suitable lists of textbooks to be used in the schools, but in a city having a board of superintendents such board of superintendents shall recommend to the board of education such lists.

4. To have supervision and direction of associate, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action, but in a city having a board of superintendents such transfers shall be made upon the recommendation of such board; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting

of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

5. To have supervision and direction over the enforcement and observance of the courses of study, the examination and promotion of pupils, and over all other matters pertaining to playgrounds, medical inspection, recreation and social center work, libraries, lectures and all the other educational activities and interests under the management, direction and control of the board of education, but in a city having a board of superintendents rules and regulations for the promotion and graduation of pupils shall be made by such board.

6. To issue such licenses to teachers, principals, directors and other members of the teaching and supervising staff as may be required under the regulations of the board of education in cities in which such board requires its teachers to hold qualifications in addition to or in advance of the minimum qualifications required under this chapter. In a city having a board of examiners, such licenses shall be issued on the recommendation of such board.

7. In addition to the foregoing powers and duties, the superintendent of schools must perform any other power or duty required of him through the by-laws of the board of education and which are not inconsistent with provisions of law.

ASSOCIATE SUPERINTENDENT — BOARD OF SUPERINTENDENTS

General Provisions.—The present law continues that provision of the former law regulating the school system of the city of New York which established a board of superintendents. Associate superintendents are appointed by the board of education without the recommendation of the superintendent of schools. The board of superintendents consists of the superintendent of schools, who is chairman of such board, and the eight associate superintendents of that city. An associate superintendent must possess the same qualifications which are prescribed for a superintendent. The term of office of an associate superintendent is six years.

The associate superintendents in office on May 8, 1917, the date when the city school law went into effect, are continued in office until the expiration of their terms. An associate superintendent may also, like a city superintendent, vacate his office by filing a written resignation with the board. Associate superintendents must per-

form such duties as the by-laws of the board of education require in addition to serving as members of the board of superintendents. The law confers the following specific powers and duties upon a board of superintendents:

1. Prepare and recommend the content of each course of study.
2. Cause courses of study, which have been properly authorized and adopted, to be used in grades, classes and schools for which they are intended.

3. Recommend to the board of education suitable lists of textbooks.

4. Recommend to the superintendent of schools the teachers to be transferred from one school to another school or from one grade of the course of study to another grade in such course.

5. Prescribe rules for the promotion and graduation of pupils.

6. Recommend for probationary appointment, to the board of education, district superintendents, directors, supervisors, principals, teachers and all other members of the teaching and supervisory staff except associate superintendents and members of the board of examiners.

7. Recommend to the board of education the discontinuance of the services of a district superintendent, director, supervisor, principal, teacher or any other member of the teaching or supervisory staff, who has been appointed on probation but whose work is so unsatisfactory that he should not be permitted to complete his probationary period.

8. Report in writing to the board of education, recommendations for the permanent appointments of those persons who have served probationary periods and have been found to be competent, efficient and satisfactory.

9. Recommend to the board of education the academic and professional qualifications required for each kind or grade of license and to also recommend the kinds and grades of licenses which shall be required to enter the teaching service as principal, branch-principal, directors, supervisor or teacher of special branches, head of department, assistant or any other position on the teaching staff.

It will be observed from the foregoing duties exercised by the board of superintendents that the intention of the law is to confer upon the board of superintendents of the city of New York, certain professional functions which, in the other cities, are exercised by the superintendent of schools.

Assistant, District and Other Superintendents.— 1. In addition to a city superintendent of schools and associate superintendents in the city of New York, the law authorizes the board of education of each city to create such assistant, district, or other superintendents as may be necessary for the proper supervision and management of the schools of the city. These superintendents are appointed by the board of education for a probationary period. This period may be fixed by the board for not less than one year and not more than three years. Any time during this probationary period such superintendents may be removed by the board of education on the recommendation of the city superintendent, but in the city of New York removal in such case must be on the recommendation of the board of superintendents. At the termination of the probationary term of service, the superintendent of schools and in the city of New York the board of superintendents is required to make a report to the board of education upon the work which these officers have performed. If that report certifies that these officers have been found competent, efficient, and satisfactory, they become permanent officers in the school system and may thereafter be removed for cause only.

2. The law provides that persons serving in such positions when the present act went into effect, June 8, 1917, who had served the full probationary period or had rendered satisfactorily an equivalent period of service, shall thereafter hold their positions during good behavior and efficient, competent service. They may not be removed except for cause, after hearing, and by a majority vote of the members of the board of education. Under this provision of law the district superintendents of the city of New York have a permanent tenure and in this respect are on the same basis as directors and grammar and high school principals in such city.

Board of Examiners.—New York city must have a board of examiners consisting of four members. Each other city may create a board which has sufficient work to justify the establishment of such board. No member of a board of examiners may serve as a member of the teaching or supervisory staffs of the city. Members of a board of examiners are appointed by the board of education. Members appointed to a board of examiners must serve the probationary period fixed by the board of education. This period may be not less than one year and not more than three years. Members of such board in office on June 8, 1917, who had

rendered satisfactory service for a period of time equivalent to the probationary period prescribed by the board of education are entitled to hold their positions during good behavior and competent and efficient service. A member of such board may be removed for cause, but must be granted a formal hearing. A majority of the members of the board is necessary to effect a removal.

The law specifies that a board of examiners shall perform the following duties:

1. To hold examinations whenever necessary.
2. To examine all applicants for positions in the school system of the city, except examiners, who are required to be examined or to have their names placed upon eligible lists in order to be eligible for appointment to such positions.
3. To prepare all necessary eligible lists.
4. To employ temporary assistance when necessary at such compensation as the board of education shall determine.
5. To perform any other duty required by the board of education.

TEACHING STAFF

Who Are Included.—Under this heading may be included elementary school teachers, vocational school teachers, industrial school teachers, high school teachers, training school teachers, special teachers, school principals, special teachers and supervisors and directors.

How Appointed.—All members of the teaching staff are appointed by the board of education on the recommendation of the superintendent of schools. In New York city the recommendation must be by the board of superintendents. In Buffalo and in New York city all members of the teaching staff, except a principal of a high school, a principal or teacher of a training school or a director of a special branch, must be appointed from the first three on an eligible list. A board of education of any other city may prescribe rules requiring appointments to be made from eligible lists established under the rules of such board.

Eligible Lists.—1. In a city in which the law requires an eligible list, as in Buffalo and New York, such list must be prepared by the board of examiners. In any other city in which an eligible list is required under the regulations of the board of edu-

cation such list must be prepared as the regulations of the board direct.

2. Eligible lists may not be merged and one list must be exhausted before nominations are made from a list established at a subsequent date. No eligible list, except the eligible list for principals, shall remain in force for a longer period than three years. Eligible lists in force June 8, 1917, are in no way affected by the new city school law.

3. No person may be placed upon an eligible list who does not satisfy the requirements of the law as to academic and professional qualifications and such further requirements as the Commissioner of Education may prescribe. The board of education of a city may also prescribe additional or higher qualifications for the teachers to be employed in its city.

Certificate or License.—In addition to such certificate as the State law or the regulations prescribed by the Commissioner of Education requires, a teacher must also obtain the kind and grade of license prescribed under the regulations of the board of education. The superintendent of schools recommends to the board of education the kind and grades of licenses which shall be required for each position in the teaching staff of the city. He also recommends the academic and the professional training which shall be prescribed for such positions. In the city of New York such recommendations in relation to the kind and grades of licenses and the academic and professional training must be made by the board of superintendents. A person employed in a position for which a license is required who does not possess the appropriate license has no claim against the city or the board of education for salary. The board of education in prescribing the kinds of certificates and grades thereof and the academic and professional qualifications must be governed by the law in reference to such matters and by regulations on the same subject which have been prescribed by the Commissioner of Education.

Term of Employment.—1. In the first instance members of the teaching staff are appointed for a probationary period. The board of education of each city should fix such period by the adoption of a by-law. That period may not be less than one year and not more than three years. In prescribing such by-law the board of education in a city in which the members of the teaching staff have not had a permanent tenure should specify what pro-

bationary period the members of such staff who have been in the service of such city shall serve before having permanent tenure. After serving that period all members of the teaching staff have permanent tenure.

2. A member of the teaching staff may be discontinued at any time during his probationary period by the board of education upon the recommendation of the superintendent of schools. In the city of New York such recommendation must be made by the board of superintendents.

3. The superintendent of schools is required to make a written report to the board of education on each member of the teaching staff who has completed a probationary period recommending for permanent appointment, those who have been found competent, efficient and satisfactory. In the city of New York such recommendations must be made by the board of superintendents. Upon presentation of such report to the board of education the persons named therein shall be entitled to hold their positions during good behavior and efficient and competent service. Thereafter they are removable for cause only and after a formal hearing. A majority vote of the members of the board is necessary to remove a teacher.

Salary.—No change whatever is made by the new city law in the salary of the teaching force. The salaries of all teachers and of all other members of the teaching staff are to continue to be regulated as such salaries were regulated under previous laws. The provisions of the charter of the city of New York regulating the salaries of teachers in that city was not repealed or modified.

Other Employees.—All other employees not included in the supervisory or the teaching staff, such, for instance, as school nurses, medical inspectors, clerks, auditors, janitors, *et cetera*, are appointed by the board of education subject to the provisions of the by-laws of such board.

Officers, Teachers, et cetera, Continued.—1. Each person holding an office or position in the schools of the city on June 2, 1917, when the new city law went into effect, is expressly continued in such office or position. Each board or bureau legally established and in operation on the same date is also expressly continued. Each such person is continued in the office or position or board or bureau for the period of time for which he was appointed. A board may, for cause and after a hearing, remove a person from the position which he holds. A board is also given the power to abolish un-

necessary positions or offices and to consolidate offices, positions, bureaus, boards, etc.

2. When a board of education abolishes an office or position and creates a new position or office for the performance of duties similar to those performed in the office or position abolished, the person holding such position or office at the time it was abolished must be appointed to the new office or position without reduction in salary or increment. The person in such position at the time it was abolished is entitled to the new position if his record has been one of faithful, competent service.

3. If an office or position is abolished, or if it is consolidated with another, and a new position is not created, the person filling the position at the time such position was abolished or consolidated is entitled to have his name placed upon a preferred list of eligible candidates. Such person is also entitled to appointment to an office or position similar to the one which he filled at the time his office or position was abolished, without reduction in salary or increment, provided his record had been one of faithful, competent service. The names of persons holding offices which have been abolished shall be placed upon a preferred eligible list in the order in which their services are discontinued.

Bonds of Employees.— 1. In certain cities of the State the board of estimate and apportionment possessed authority under previous laws to require certain officers and employees in the school system to give bonds for the faithful performance of their duties and for funds held in their custody and for the financial protection of the city. In certain other cities not having a board of estimate and apportionment the body of officers performing the duties performed by such board of estimate and apportionment possess the power under former laws to require such bonds. In such cities this body or officers may continue to require bonds of such employees.

2. In all other cities of the State the board of education may require such of its employees as it deems necessary to give bonds. The board may also determine the amount of such bond.

3. The premiums on the bonds of all such employees must be paid by the city.

SITES

Authority to Purchase.— A board of education, except in certain cities, is authorized to purchase sites or additions to exist-

ing sites or real property for other educational purposes. The exception to this general rule is in cities of the second class in which the common council, the board of estimate and apportionment, the board of contract and supply, and the commissioner of public works, or other city officials, or any one of such officials had the legal authority under the law in force before the enactment of the new city school law to purchase real property for educational needs, in which case such officials will continue to exercise the same power in the purchase of school sites and property for other school purposes. In no case, however, may a school site or an addition to a school site be purchased unless such site is designated by a majority vote of the board of education. Even in cities in which one or more of the municipal officers or boards above enumerated have the power to purchase land for school sites, such land may not be purchased by these officers for that purpose until the site is approved by the board of education.

2. When it is necessary to purchase a school site, an addition to a school site, or to obtain land for a playground or recreation center, or to purchase real property for any other purpose authorized under the education law, a board of education is authorized to take options on property desirable for such purposes. Before a board of education may take title to property for such purposes, it must adopt a resolution stating the necessity which requires the purchase of such property and describing the property by metes and bounds. The board of education must also make an estimate of the funds necessary to purchase such site. If money is available which may be used for the purchase of such property, the transaction may be closed, the property acquired and paid for. If funds are not available for the purchase of such property, the required amount may be included in the next annual budget of the board of education. The board may also include such amount in a special budget if such special budget is issued. The board of education, before acquiring title to real property for any of the purposes enumerated in this paragraph, must, of course, act within the limitations above specified in those cities in which municipal officers exercise the authority to purchase real property for educational needs under statutes in operation previous to June 8, 1917.

SCHOOL BUILDINGS

Authority of Board of Education.—A board of education has authority to repair, remodel, improve, or enlarge school buildings or other buildings used for educational purposes and under the control and management of such board. A board of education also possesses the authority to purchase school buildings and to construct new buildings. A board must exercise this power within the limitations expressed in the law. The limitations in these respects are similar to the limitations of the power of the board in acquiring real property for sites and other school purposes. If the common council, the board of estimate and apportionment, and the board of contract and supply, and the commissioner of public works, or other city officials, or any one or more of such officials in a city of the second class possess the authority to exercise any of these powers in relation to school buildings under the statutes in force previous to June 8, 1917, such municipal officers have the right to continue to exercise such powers.

2. A board of education is the authority to determine the necessity for additional school buildings or the repair or improvement of existing buildings. When additional accommodations of this character are needed, the board of education should adopt a resolution specifying in detail the necessity for such accommodations and making an estimate of the amount of funds necessary for such purpose. The expense incurred may be paid from the funds available for such purposes. If no funds are available for such purposes, the amount may be included in the next annual budget. The board may include such amount in the special budget if one is issued. In a city in which any one or more of the municipal officers or boards above enumerated have the power to erect school buildings, remodel them, etc., no such building may be erected or remodeled or enlarged until the plans and specifications therefor are approved by the board of education. Under the provisions of the new city school law ordinary repairs to school buildings in all cities of the State are under the direction of the board of education, and such repairs should be made by the board of education and not by municipal authorities.

3. In the city of Buffalo the board of education may in its discretion adopt a regulation providing that plans and specifications for the construction of new buildings shall be delivered to the council,

and such council may in its discretion award a contract for the erection of such building under the same terms and conditions that contracts in that city are awarded for the construction of municipal buildings.

Title to Property.— When a board of education purchases real property for school purposes it should take title to such property in the name of the city, or it may take such title in the name of the board of education of the city of

Condemnation of Property.— When a board of education or municipal officers authorized to acquire property for school purpose are unable to agree with the owners of such property on the price thereof, such property may be taken for this public purpose in various ways. It may be taken under the provisions of the condemnation law, or it may be taken as real property is taken for other public purposes under the provisions of the city charter or the provisions of any special statute authorizing proceedings to acquire title by right of eminent domain. In those cities in which the common council, the board of contract and supply, or other city officers or body possessed the legal authority previous to June 8, 1917, to acquire title to real property for school purposes, such officers or body continue to exercise these powers under the present law.

Sale of School Property.— When a school site or a school building or other real property used for educational purposes and under the control and management of a board of education is no longer needed for educational purposes, the board of education should notify the common council, and in a city having no common council the board of education should notify the council or the commissioner of the sinking fund. The common council, the council, or the commissioners of the sinking fund, as the case may be, have the authority and it is their duty to sell or dispose of such property in the same manner as such bodies are authorized to sell or dispose of other real property owned by the city. The proceeds of the sale of such real property should be credited to the funds under the control and administration of the board of education unless the practice in a city, under previous statutes, required other disposition of such funds. In certain cities the law required the proceeds of the sale of such property to be credited to the sinking fund established in such city. In such cities the proceeds of the sale of such property must continue under present law to be paid into the sink-

ing fund. In the city of Buffalo the council may by resolution authorize the use of the proceeds of such sale for other municipal purposes, and in a city having a board of estimate and apportionment such board may also by resolution authorize the use of the proceeds of the sale of such property for other municipal purposes.

TAX ELECTION

The law authorizes a tax election in a city having a population of less than 75,000. The board of education may call such election by giving notice thereof as notice is required under the provisions of the education law for an annual school election. The purpose of this election is to permit the qualified voters to determine whether or not an expenditure in excess of \$25,000 for the construction of new buildings, for repairing and remodeling existing buildings, or for the purchase of sites, addition to sites, or other real property for educational purposes shall be made. The provisions of law governing annual school elections, appointment of inspectors, notices of meetings, qualifications of voters, challenges, hours for keeping poles open, penalties, canvass of votes, filing returns, furnishing ballots, etc., must apply to and govern the tax election in a city, except one in which the election of members of the board of education is held at the general or municipal election. In such a city the law applying to and governing such general or municipal elections shall apply to and govern such tax elections.

This tax election may be called even if there has not been included in the annual estimate an item for this specific purpose. The object of this tax election is to give the people of the city the opportunity to determine whether or not such appropriation shall be made. If favorable action is taken on the proposition the amount authorized to be expended must be included in the estimate and also in the budget.

ANNUAL ESTIMATE — BUDGET — BONDS, ETC.

1. In enacting the provisions of the city school law relating to financing school systems, preparing budgets, collecting taxes, etc., it was not the intention to change the existing practice in any city in the State. It was the intention to so word the language of this law that in cities where municipal officers exercise authority in determining the amount of funds to be used for school purposes, they shall continue to exercise those powers, and that boards of

education having independent power in raising funds for school purposes should continue to exercise such powers. The one exception to this general principle was in the case of the city of New York. The law was intentionally framed to confer upon the school board of that city the power to obtain sufficient funds for the general operating expenses of the school system irrespective of the action of municipal officers.

2. The board of education of each city in the State is required to prepare an annual estimate of the funds which such board deems necessary for the maintenance and operation of the school system for the current or ensuing year. In the city of New York this estimate must be filed on or before the first day of September. In all other cities of the State such estimate must be filed at the same time and in the same manner as the departments or officers of the city government are required to file their estimate for city departments or city officers.

3. The law divides the purposes for which a budget shall be prepared into three general subjects. In the first is to be included what may be called the salary schedule or personal services; in the second are to be included the funds which are necessary for incidental and contingent expenses for the operation of the school system; in the third are to be included such items as are necessary for remodeling or enlarging buildings, construction of new buildings, purchase of real property, etc. The exact language of the law is as follows:

a. The salary of the superintendent of schools, associate, district or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, auditors, medical inspectors, nurses, attendance officers, clerks and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education.

b. The other necessary incidental and contingent expenses including ordinary repairs to buildings and the purchase of fuel and light, supplies, textbooks, school apparatus, books, furniture and fixtures and other articles and service necessary for the proper maintenance, operation and support of the schools, libraries and other educational, social or recreational affairs and interests under its management and direction. The provisions of this section in regard to the purchase of light shall not apply to a city having a population of one million or more.

c. The remodeling or enlarging of buildings under its control and management, the construction of new buildings for uses authorized by this chapter and the furnishing and equipment thereof, the purchase of real property for new sites, additions to present sites, playgrounds or recreation centers and other educational or social purposes, and to meet any other indebtedness or liability incurred under the provisions of this chapter or other statutes, or any other expenses which the board of education is authorized to incur.

ACTION ON ESTIMATE

1. In a city which had, according to the State census of 1915, a population of less than 50,000, the estimate of the board of education must be filed with the clerk of the common council. The common council in such cities, with the exceptions which are hereafter stated, is required to include in its next annual tax and assessment roll of the city the amount stated in this estimate as necessary for operating the schools, and to collect such amount in the same manner that other city taxes are collected.

2. In certain cities of the State the law authorized the assessment and collection of school taxes in a separate assessment roll, separate and distinct from the tax roll for other municipal purposes. In such cities the board of education will continue to assess and collect its taxes for school purposes as in former years. In a city in which the school district and the city boundaries are not coterminous the board of education issues a separate tax list and collects its taxes for school purposes. If the boundaries are later made identical the taxes must then be raised by the city at the same time and in the same manner that city taxes are raised.

3. If the amount called for in the estimate for the remodeling and enlarging of buildings, construction of new buildings, furnishing and equipment of buildings, purchase of real property, etc., as enumerated in subdivision C of section 877, is in excess of \$25,000, in a city having a population of less than fifty thousand, either the common council or the board of education may call a tax election and permit the voters of the city to determine whether or not the proposition for the expenditure of such sum shall be raised by one tax upon the property of the city or whether it shall be raised in installments and the funds provided by the issuance of bonds. In a city of this kind, where the board of education is appointed or

elected at a general or municipal election, the vote upon such proposition must be at either a general or municipal election. In other cities of this class such vote may be at a general or special school election.

4. (a) If a common council possessed the power under former statutes in a city of the third class to determine the amount of funds which shall be appropriated for the support and maintenance of public schools, such common council may continue to exercise the same power over the estimate submitted to it for school purposes.

(b) There is a provision in the city school law to the effect that nothing in that act shall be construed as conferring upon the common council of a city power or authority in determining the amount of tax to be raised for school purposes which the statutes in existence prior thereto did not confer upon such common council.

5. (a) If a mayor possessed the power under previous statutes to veto items in a school estimate, or to reduce items, or to take any other action in connection with the estimate for school purposes, the mayor is to continue to exercise such power.

(b) In cases where the mayor may reduce or eliminate an item in the estimate, he is required to return such estimate to the board of education and must state his reasons for the action taken. This statement must be filed by him within ten days after receiving the estimate. The board of education may then reconsider the estimate and, by a three-fourths vote, restore the items either reduced or eliminated by the mayor. The restored items must then be included in the tax levy of the city for school purposes.

6. (a) The board of estimate and apportionment in certain cities of the second class possessed power under previous statutes to determine the amount of funds which should be appropriated for the support and maintenance of schools. These cities are Albany, Binghamton, Schenectady, Syracuse, Troy and Yonkers. The same authority was conferred under previous laws upon the board of estimate and apportionment of the city of Rochester. This practice is continued in such cities under the present law. The estimate of the board of education in these cities must, therefore, be filed with the mayor. The mayor must then place such estimate before the board of estimate and apportionment at the same time and in the same manner that estimates from the city departments or officers are placed before such board of estimate and apportionment. The estimate then becomes a part of the general estimated

expenses for the operation of all city affairs and is subject to the same consideration, action, and procedure as the estimates of other departments. The board of estimate in such cities may increase, diminish, or reject any item contained in said estimate except for fixed charges for which the city is liable. When the estimate is adopted by the board of estimate and apportionment, that body must file it with the common council.

(b) The question is naturally raised as to what is meant by "fixed charges for which the city is liable." Bonds issued for school purposes may mature, and an item included to meet the payment thereof is, therefore, properly in the estimate of the board of education. This is a fixed charge for which the city is liable and which the city has already authorized. The board of estimate and apportionment could not reduce or eliminate this item. In some cities a salary schedule has been adopted, and teachers have in all cities permanent tenure. Provision must be made for the salary of these teachers. In such cases the board of estimate and apportionment may not reduce the amount included in the estimate of the board of education for salaries of teachers. There are many other items of this kind which are liabilities already incurred, either under the statute, or by action of the school authorities or the municipal authorities pursuant to provisions of law, and in such cases the board of estimate and apportionment have not legal power to reduce or eliminate these items.

7. In the other cities of the second class not included in paragraph 6, the board of education is required to file its estimate with the mayor. The common council and the mayor of the city have not authority to reduce any of the items in this estimate. The amount of such estimate must be included by the common council in the tax and assessment roll of the city; such amount must be collected and placed to the credit of the board of education. The law provides, however, that a tax for new construction or any of the purposes specified in paragraph c of subdivision 1 of section 877 shall be levied payable in installments and that bonds shall be issued as provided in the city school law.

8. In the city of Buffalo the estimate must be filed with the officer authorized in that city to receive department estimates of the city. This estimate is acted on by the city officer and the council in the same manner and with the same effect as city department estimates. The common council has discretionary power to include in the

budget a sum for the construction of new buildings, the remodeling, repairing, and enlargement of existing buildings, addition to sites, playgrounds, recreation centers, and any other educational purpose. The council must include the sum which has been authorized for any of these purposes by a tax election. After the budget has been properly adopted the council shall include the amount thereof in the tax and assessment roll of the city, and such amount must be collected in the same manner and at the same time as other taxes of the city are collected, and the amount collected for educational purposes must be placed to the credit of the board of education.

9. (a) The estimate for the city of New York must be filed with the board of estimate and apportionment. The board of education in its estimate of school funds may include an amount equivalent to or less than nine and four-tenths mills on every dollar of assessed valuation of the real and personal property in the city liable to taxation. The board of estimate and apportionment has no discretion in considering the estimate of the board of education for this amount. An amount equal to this tax on the property of the city must be included in the budget for the city of New York. The board of education, however, may include an amount for school purposes in excess of such rate. On this amount the board of estimate and apportionment has discretionary power. It may, or may not, allow such excess amount. It may allow only part of such amount. Any amount called for in the budget beyond the rate of four and nine-tenths mills is subject to the same consideration and action by the board of estimate and apportionment, the board of aldermen, and the mayor, as that taken upon the departmental estimates of the city. The board of estimate and apportionment in the city of New York is authorized, however, to make additional appropriations for educational purposes beyond the rate of four and nine-tenths mills or in addition to the estimate submitted by the board of education.

(b) The school funds of the city of New York are divided into two parts and known as the general school fund and the special school fund. The general school fund consists of moneys raised for the payment of the salaries of persons employed in the supervising and teaching staff, including the superintendent of schools, the associate, district, and other superintendents, members of the board of examiners, attendance officers, supervisor of lectures, lecturers, and director and assistant director of the division of refer-

ence and research. The general school fund must be raised in bulk and for the city at large. The special school fund includes all moneys not comprised in the general school fund as above outlined.

(c) There is a special provision in the law which confers upon the board of education of the city of New York the power to administer all moneys appropriated or available for educational purposes in that city. This power, however, is subject to the provisions of law relative to the audit and payment of salaries and other claims by the department of finance.

10. In certain cities of the State the former statutes provided that the amount appropriated for the support and maintenance of public schools of the city should not be less than a per capita sum specified therein. This sum was based upon the number of pupils enrolled in the public schools. In all such cities the amount included in the estimate of school expenditures under the present law shall not be less than the per capita sum specified in such previous laws.

SPECIAL ESTIMATE

To meet emergencies which may arise, a board of education may submit a special estimate to obtain funds to meet extraordinary expenses. This special estimate must contain a full statement of the reasons why such estimate is submitted and the necessity therefor. The same method of procedure must be followed in the consideration and adoption of such estimate in the several cities of the State as is followed in such cities in the consideration and action upon the regular annual estimates. The common council is authorized to make appropriations requested in the special estimate of a board of education.

BORROWING FUNDS FOR SCHOOL NEEDS

1. In a city of the third class the common council may temporarily borrow the amount appropriated for school purposes on city certificates of indebtedness by the issuance of revenue bonds or other municipal bonds. Such certificates or bonds shall be payable at such time and in such manner as are provided by general laws or the city charter for other certificates of indebtedness or revenue bonds.

2. In a city of the second class the board of estimate and apportionment may borrow funds under the same procedure as in cities

of the third class. In the city of Buffalo funds for such purpose may also be borrowed by the council of that city.

CUSTODY OF SCHOOL FUNDS

1. The law contemplates that all moneys intended for the support and maintenance of schools shall be paid into the city treasury, credited to the board of education, and used for the purposes for which they were raised.

2. The only authority to disburse such funds is the board of education. These funds may be paid upon written orders drawn on the city treasurer or other fiscal officer of the city. The orders must be signed by the superintendent of schools and the secretary of the board of education unless other officers are authorized to sign orders by the board of education. These orders must be numbered consecutively and they shall specify the purpose for which the funds are drawn and the person or corporation to whom such funds are payable.

3. The law prohibits the city treasurer or other officer having the custody of these funds to permit their use for any purpose other than that for which they are lawfully authorized. These funds shall be paid out on the audit of the board of education and the counter-signature of the comptroller, and in a city having no comptroller, by an officer designated by the officer or body having the control of the financial affairs of such city.

4. The board of education may make such classification of its funds and accounts as it may desire for its own use. It must also make such further classification of the funds under its control and disbursement as the comptroller of the city or the other officer or body having general control of the financial affairs of such city shall require. The board of education must also furnish such information in relation to these funds and their disbursement as the comptroller or financial officer of the city requests.

ISSUANCE OF BONDS

1. In the city of New York the board of estimate and apportionment may in its discretion annually cause to be raised such sums of money as may be needed for the construction of new buildings, the remodeling or enlarging of existing buildings, the acquisition of new sites, additional sites, or real property for other educational purposes. This money must be raised in the manner provided in

the charter of the city of New York for raising money for such purposes.

2. In the city of Buffalo the council may, by vote of four-fifths of its members, authorize the issuance of bonds to meet the expense of the construction, improvement, and equipment of school buildings and the purchase or acquisition of school sites, the expense of which has not been included in the budget. These bonds shall be issued in such amounts and payable at such times and places and bear such rates of interest as the council may determine. The interest shall not exceed six per centum per annum, and it shall be paid semi-annually. Such bonds shall not be issued for more than fifty years from their date and shall not be sold for less than their par value and accrued interest. Such bonds must be made payable in equal proportions during the number of years for which they are issued. These bonds must be sold by the authorities of the city in the same manner that bonds for other municipal purposes are issued and sold. The proceeds of the sale of such bonds must be paid into the city treasury and credited to the board of education. As these bonds mature the authorities of the city must include in the tax levied and assessed on the property of the city the amount necessary to pay such bonds and interest thereon.

3. In the cities of the second class and in the city of Rochester the common council and the board of estimate and apportionment has the power to determine upon the necessity of issuing bonds for the construction of new buildings, repairing and remodeling of existing buildings, acquisition of sites, addition to sites and real property for other educational purposes. The municipal authorities are required to issue such bonds when these bonds have been authorized.

4. In all other cities of the State when the common council or voters of the city authorize an appropriation to be raised by a tax in installments for the construction of new buildings, repairing and remodeling existing buildings, for school sites, addition to sites, or the acquisition of real property for other educational purposes, city bonds shall be issued in the same manner and under the same provisions as bonds are issued by such city for other purposes.

REVIEW QUESTIONS

State the general change recently made in the law regulating city school systems. What is the controlling body of a city school system? Who is eligible to hold such office? How many members must a city board of

education contain? How many members on the board of education in New York City? How is a board having more than nine members reduced to the required number? What is the requirement for cities hereafter organized? Explain fully how members of a board of education are chosen in different cities? In what city may they be chosen from a subdivision of a city? Why? What is the term of a member in the City of New York? In Albany? Troy? In the other cities of the State? When is the first board to be appointed in New York? By whom? How are the terms of the members of the first board designated? When is a board to be appointed in Buffalo? How is a board reorganized in a city having more than nine members and such members are appointed by the mayor? How is a board reorganized in a city having more than nine members when the members are elected? How are vacancies filled which expire other than by expiration of a term in a city in which members of the board are elected? How are such vacancies filled in a city in which the members are appointed by the mayor? When is the annual meeting of the board? How often must regular meetings be held? How may special meetings be held? What is the general intention of the law in conferring power on the board of education? Specify ten general powers and duties of the board of education? What general power is given the board in relation to the school organization? Specify two limitations to the power of the board in awarding contracts. What city has a local board school district? What organization has that district? How is such organization created? Specify eight powers and duties of such local board. How are the expenses of this board met? What special function has the secretary of the board?

In what city is a fixed term given superintendents? What is the term of office in other cities? How may a superintendent be removed? How may one resign? What qualifications must a person possess to be eligible to the office of superintendent? What limitations are placed upon the powers and duties of the city superintendent? Specify seven general powers and duties conferred by law upon a city superintendent. Explain the organization of the board of superintendents in New York City. Specify nine powers and duties conferred by law upon a board of superintendents. Compare the functions of such board with the functions of a city superintendent. What additional powers must such board exercise? What other superintendents may be provided for a city school system? How? What probationary term must such superintendent serve? How may such superintendent be removed? What is the tenure of office of such superintendent? What city must have a board of examiners? How many members on such board? How are such members appointed? What restriction is placed upon such board? What probationary term must they serve? What is their tenure thereafter? Specify five powers and duties of such board. Who are included under the term "Teaching Staff?" How are members of such staff appointed? What is the requirement in New York City? In Buffalo? How is an eligible list established? May such list be merged? For what period of time is such list valid? Who is entitled to be placed upon such list? What certificate or license must each hold? Who prescribes the minimum requirements? By what methods are additional qualifications prescribed? What is the

probationary term of employment? By whom fixed? How may a member of such staff be dismissed during probation period? Thereafter? By what method does a member of such staff receive permanent appointment? How is the salary regulated? What other employees may the system contain? What is the requirement as to a person holding a position on June 2, 1917? How may such person be removed? What is the requirement when a person is removed? What eligible list is created? When is a person entitled to be placed upon such list? What employees are required to give bonds? When are such bonds prescribed by the municipal authorities? When by school authorities?

Who has authority to purchase sites? What limitation is there to this authority? What is the procedure when a site is necessary? How may funds be obtained for the purchase of the same? Who has the sole authority to designate sites for school buildings in a city? What authority has the board of education over the construction, repair and remodeling of school buildings or other buildings under their control? What exception is there to this general power? Explain fully who determines the need of new school buildings? Repairs to buildings? What is the procedure? How are funds obtained? Who possesses the authority to make ordinary school repairs? By whom must all plans and specifications for the repair, improvement or construction of school buildings be approved? What discretionary power has the board of education in the City of Buffalo on the construction of school buildings? Who takes title to property for school purposes? By whom may property be condemned for school purposes? Explain the different processes? Who has authority to sell school property? Explain the process in different cities? Who may call a tax election? When? For what purpose? How? What law controls the election?

What was the general intent in arranging the financial control of city school systems? Who prepares the estimate? When? With whom must it be filed in New York City? In other cities? Name the three general outlines under which the estimate is classified? What may be included in the *a* class? In the *b* class? In the *c* class? What action is taken on such estimate in cities having a population of 50,000 or less? In what cities may a separate independent tax list be issued? What special action may be taken on an estimate in excess of \$25,000? What power has a common council over such estimate? Is it the intention of the law to give such body increased powers? What power has the mayor in certain cities? How must the mayor proceed to exercise such power? What body has power over the appropriations in certain cities of the second class? Name these cities? Explain the procedure in such cases? What is meant by "fixed charges for which the city is liable?" Give illustrations. What action is taken in other cities of the second class on such estimates? Explain the procedure in the City of Buffalo. Explain the requirement in the City of New York? What divisions are made of the New York City school funds? Define each. What is the requirement as to a per capita fund in certain cities? When may a special estimate be submitted? How? How may cities of the third class borrow funds for school needs? A city of the second class? Who is the custodian of city school funds? By whose order

may such funds be disbursed? What is the procedure? What is the limitation as to the use of such funds? What classification must a board of education make of its funds? How may additional funds be raised in New York City for the construction of buildings, etc.? How may bonds be issued in Buffalo? How may bonds be issued in cities of the second class? In the third class?

CHAPTER XXXIII

CITY SCHOOL ELECTIONS

[Article 7-a, Chapter 791, Laws of 1917]

To What Cities Applicable.—In those cities of the State in which members of the board of education are elected by the qualified voters at a special election such election must be held as provided in this chapter. Cities which elect the members of their board of education at either the general election or a municipal election do not hold their elections in accordance with these provisions. Those cities in which the school district extends beyond the boundaries of the city and who hold their election at the time of the annual school election in union free school districts in the month of August are not required to hold their elections in accordance with these provisions.

Date of Annual Election.—The annual election in all cities to which the provisions of this chapter apply shall be held on the first Tuesday in May in each year.

Polls Open.—The law requires that the polls of such election shall be open from 12 o'clock noon until 8 o'clock in the evening.

Election Districts.—On or before the first day of April, 1918, the board of education of each city to which this law applies is required to adopt a resolution dividing the city into school election districts. Each school election district shall contain not more than 1,000 qualified voters. Such districts shall be so arranged, if possible, that there shall be a schoolhouse in each of such school election districts. The resolution designating these districts should accurately describe the boundaries of such districts by streets, alleys and highways. When possible to do so the boundaries of a school election district should include one or more of the regular election districts of the city. The districts thus formed shall continue in existence until modified by resolution of the board of education.

Where Election Shall Be Held.—All school elections, so far as possible, shall be held in a public schoolhouse. If there is a school election district in which there is no schoolhouse the board of edu-

cation shall by resolution designate some other building where the election in such district shall be held.

Notice of Election.— The board of education must give notice of the annual school election. This notice may be given by publishing the same at least once each week for four weeks preceding each election in at least two newspapers published in the city. The notice must state the day of the election and the hours during which the polls will be open. This notice should also accurately describe the boundaries of the school election districts into which the city is divided. It should also name the school house, or other place in the city, where these elections will be held. The notice should state at what place the poll lists prepared by the clerk of the board of education are on file and that the same may be examined at the office of the clerk of the board or the superintendent of the city.

Qualifications of Voters.— A person shall be entitled to vote at a school election in such city who is :

1. A citizen of the United States.
2. Twenty-one years of age.
3. A resident within the election district for a period of thirty days next preceding the election at which he offers to vote ; and who in addition thereto possesses one of the following four qualifications :
 - a. Owns or hires real property in such district or is in the possession of such property under a contract of purchase, assessed upon the last preceding assessment-roll of the city, or
 - b. Is the parent of a child of school age, provided such child shall have attended the public schools in the city in which the election is held for a period of at least eight weeks during the year preceding such election, or
 - c. Not being the parent, has permanently residing with him a child of school age who shall have attended such public schools for a period of at least eight weeks during the year preceding such election, or
 - d. Owns personal property, assessed on the last preceding assessment-roll of the city, exceeding fifty dollars in value, exclusive of such as is exempt from execution.

No person shall be deemed to be ineligible to vote at any such election, by reason of sex, who has the other qualifications required by this section.

Poll List.— The clerk of the board of education is required to prepare a poll list for each school election district in the city on

or before the first day of April in each year. This list shall contain the names of all persons residing in such district who are qualified to vote for the office of members of the board of education at the ensuing election. The names on this list must be arranged alphabetically by their surnames and their place of residence by street or number of each person must also be given. If the residence may not be given so specifically, there must be some description accurately locating the place of residence of each person.

Poll List Filed.— This poll list must be filed in the office of the clerk of the board of education, or some other accessible place designated by the board of education. Arrangements must be made so that such list may be examined by any person interested therein during the office hours of the clerk of the board for thirty days preceding the annual school election. It must also be open to examination from 4 to 8 o'clock in the evening of each Friday and Saturday of the four weeks immediately preceding the election. The clerk of the board, or some person designated by the board, shall be present at the office of the clerk at such hours and shall permit such list to be examined by the public.

Additional Names Placed Upon List.— If a person whose name is not upon the list appears before the clerk of the board of education and files a written statement with such clerk, giving in such statement his name, residence, occupation, the school election district in which he resides, and specifies the qualifications which entitle him to vote, such clerk must place his name upon the poll list.

Transfer of Name to Poll List of Another District.— If the name of a qualified voter appears upon the poll list of a school election district and such voter is a resident of another school election district, such voter should make a written statement setting forth such facts, showing his correct residence and his name. Thereupon the clerk should strike his name from such poll list and place it upon the proper poll list.

Revision of List — Challenges to be Received.— The clerk of the board of education, or other person designated by the board, must on the Monday preceding the annual election correct and revise each of the duplicate poll lists for the several election districts of the city by striking therefrom and inserting in their proper places the names of persons who have filed the statement above required. Such clerk shall also receive challenges, which may be made in writing, by any qualified voter against the right of any

person on such poll list to vote at the election. Such clerk shall also indicate on such poll lists the persons whose qualifications as voters have been challenged.

Filing Corrected List.—The revised and corrected poll list must be filed in the office of the clerk of the board of education. Such board shall cause a copy of the list of each election district to be delivered on the day of the election, before the opening of the polls therein, to the inspectors of each district at the place where the election in such district is to be held.

Blanks, etc.—It is the duty of the board of education to furnish all necessary blanks to enable voters to prepare any of the statements required in connection with their right to vote, the district in which they reside, and on which written challenges may be made.

Appointment of Inspectors.—At least ten days prior to each school election the board of education shall designate three qualified voters of each school election district to act as inspectors of election. The clerk of the board of education is required to give a written notice of appointment to the persons so designated. If a person appointed an inspector refuses to accept such appointment, or fails to serve, the board may appoint a qualified voter of the school election district to fill the vacancy.

Additional Inspectors.—When the board of education believes that existing circumstances require the services of additional inspectors such board may appoint not to exceed two additional inspectors of election for each election district.

Organization of Inspectors.—Before opening the polls in a school election district the inspectors must organize by electing one of their number as chairman and one as poll clerk.

Compensation.—Each inspector is entitled to receive for his services a compensation of \$3, to be paid out of the school funds in the same manner as other claims against the school board are audited and paid.

Nomination of Candidates.—Candidates for members of boards of education in cities shall be nominated by petition directed to the board of education. Such petition must be signed by at least thirty persons qualified to vote at school elections in the city. The petition must also contain the names and residences of the candidates to be voted upon at the election, and such petition must state whether such candidates are nominated for full terms or for unexpired portions of terms. These petitions must be filed with

the clerk of the board of education at least ten days before the day of the annual election.

Ballots.— Printed official ballots containing the names of candidates nominated shall be provided by the board of education. These ballots shall show whether the candidates are nominated for full terms or for unexpired terms. The names of candidates must be arranged alphabetically according to their surnames. Blank spaces must be provided so that voters may vote for candidates who have not been nominated. The form of the ballot must conform substantially to the form of ballot used at general elections. The expense of the preparation of such ballots must be met by the board of education. Instructions as to the marking of the ballots and the number of candidates for which a vote is permitted must be printed on the ballots. These ballots must be delivered to the inspectors in each election district on the day of the annual election. The number of ballots printed must equal at least the number of qualified voters in the district.

Failure to Use Official Ballot.— If official ballots are not furnished as required in the foregoing paragraph and the election is otherwise held, such election need not be declared invalid or illegal because the ballots used did not conform to the above requirements; provided, however, the intent of the voter may be ascertained from the use of the irregular or defective ballots and such use was not fraudulent and did not substantially affect the result of the election.

Use of Voting Machines.— In a city in which voting machines are used at general or municipal elections it shall be legal for the board of education of such city to authorize the use of such machines at the school election. When machines are thus used the law regulating the use of machines at a general or municipal election shall apply to and govern the use of such machines at the school election.

Conduct of Election.— School elections must be conducted so far as may be possible in accordance with the provisions of the law governing general elections. It is the duty of the board of education to provide ballot boxes for each school election district. Two boxes should be provided — one to contain the ballots voted, and the other to contain the rejected or defective ballots. The board of education should also provide booths, and voters should be required to enter such booths for the purpose of marking their ballots. The ballots presented to the inspector must be folded so as to conceal the names of the candidates voted for. All persons entitled to vote,

who are in the place where the election is held, shall be required to cast their ballots before the polls are closed. Inspectors must keep the poll list containing the name and address of each qualified voter voting either for candidates or upon other propositions before the election for consideration.

Challenge of Voters.— All persons named upon the poll list as having been challenged prior to the day of election must also be challenged at the election before they are given ballots to vote. A qualified voter of the school election district may challenge the right of a person to vote at the time he requests a ballot. Any person thus challenged must be afforded the opportunity to make the oath prescribed in section 216 of the Education Law. If a person challenged so swears or affirms, his vote must be received. If he refuses to so swear or affirm he shall not be given a ballot or permitted to vote.

Penalty for Falsely Swearing or Illegally Voting.— 1. A person who wilfully swears or affirms falsely as to his right to vote at a school election after being challenged, is guilty of perjury and may be punished in accordance with the provisions of the penal law for the commission of such crime.

2. A person who is not qualified to vote at a school election, but who shall vote at such election, although not challenged, is guilty of a misdemeanor, punishable by a fine of not less than \$25 or by imprisonment of not less than thirty days, or by both such fine and imprisonment.

Canvass of Votes.— 1. As soon as the polls of the election close the inspectors must count the ballots which are in the box, without unfolding them. The number of ballots found in the ballot box must be compared with the number of persons recorded on the poll list as having voted. If the number of ballots exceed the number of names on the poll list such ballots must be replaced, without being unfolded, in the ballot box from which they were taken. Such ballots must then be thoroughly mingled in such box and one of the inspectors designated by the board shall then publicly draw out a sufficient number of ballots so as to make the number of ballots left in the box equal to the number of names on the poll list. The ballots which are drawn out shall not be unfolded, but shall be placed in an envelope, which shall be sealed, and indorsed with a statement of the number of such excess ballots and signed by the

inspector who withdrew such ballots. This envelope must then be placed in the box for defective ballots.

2. The inspectors shall then count the votes cast for each candidate and shall keep a tally list of the same. Such inspectors shall also make a statement showing the names of the candidates receiving votes and the number of votes cast for such candidates. They shall also make a statement containing the number and a description of the ballots which are declared void and also the number of wholly blank ballots which are cast. These statements must be signed by the inspectors. The ballots which are declared void and not counted shall be enclosed in an envelope which shall be sealed and indorsed and signed by the inspectors. This envelope must be placed in the ballot box containing defective ballots.

3. After the inspectors have thus counted the ballots and prepared their statements the ballots shall be replaced in the ballot box. Each box shall then be securely locked, sealed, and deposited by an inspector chosen for that purpose with the clerk of the board of education. The unused ballots shall be placed in a sealed package and returned by an inspector designated for that purpose to the clerk of the board of education at the same time that the ballot boxes are delivered to him. The statement of the canvass of the votes shall also be filed with the clerk of the board of education on the day following the annual election.

Canvass by Board of Education.—The board of education is required to meet at its usual place at 8 o'clock on the evening of the day following an election. Such board should forthwith examine and tabulate the statement of the results of the elections in the several election districts. The board should also canvass the returns as contained in such statements and determine the number of votes cast for each candidate. Thereupon the board shall declare the result of the canvass. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. The clerk of the board of education shall record the result of the election as announced by the board.

Notice to Candidates of Election.—The clerk of the board of education shall within twenty-four hours after the result of the election has been declared by the board of education serve written notice, either personally or through the mail, upon each person declared to be elected a member of the board of education.

REVIEW QUESTIONS

To what cities of the State does the city school election law apply? To what cities does it not apply? What is the date of the annual city school election? During what hours must the polls be open? Into what districts must a city be divided? When? How many? How must such districts be arranged? How must such districts be defined? How may they be modified? Where must school elections be held? Who must give notice of annual election? How? What information must it contain? What qualifications must a person possess to be entitled to vote at such election? Who prepares a poll list? When? What must such list contain? How must the names be arranged? Where must it be filed? When? Who may examine it? When? What arrangements must be made therefor? In what way may the name of a person omitted from such list be placed on it? How may a name be transferred from the list of one district to that of another? Who revises the list? How? How may challenges be made previous to the day of election?

What must be done with the corrected list? When, where and by whom are such lists given to inspectors? When and by whom are inspectors of election appointed? How many? By whom are they notified? How are vacancies filled? Under what conditions may additional inspectors be appointed? How do they organize? What compensation do they receive? Explain fully how a candidate may be nominated for office. Describe fully how ballots must be prepared. To whom are they delivered? When? By whom? How many must be printed?

What effect will the failure to use official ballots have upon an election? When may voting machines be used? How must the election be generally conducted? What ballot boxes must be furnished? By whom? Must booths be provided? How must a ballot be folded? Who are entitled to vote after the hour set for closing the election? Who may challenge the right of a person to vote? Is a written challenge deposited with the clerk of a board of education sufficient? May a person vote whose name is not on the poll-list? How? What must a challenged person do in order to vote? What penalty may be imposed upon a person who falsely swears in his vote? What penalty may be imposed upon a person who is not legally qualified to vote but who votes and does not swear in his vote?

Who canvasses the votes? Describe the method fully. What statements must inspectors make? What must be done with these statements, tally sheets, etc.? Explain fully what must be done with the ballots after the canvass is completed by the inspectors.

What canvass must the board of education make? When? What declaration should it make? What record must be made? Who notifies the persons elected at such election? How?

CHAPTER XXXIV

APPEALS TO THE COMMISSIONER OF EDUCATION

[Article 34]

Who May Appeal.— Any person considering himself aggrieved under the provisions of this title of the Education Law may bring an appeal to the Commissioner of Education for judicial determination.

Action Appealable.— Any action of a school district meeting, of a board of education, of a supervisor in relation to school moneys, of a district superintendent or other officer relating to the establishment, dissolution, consolidation, or modification of school districts, or an apportionment of school moneys, or the action of any of the foregoing concerning any other matter under the education law, or pertaining in any way to the school system, may be reviewed by the Commissioner of Education on appeal to him in due form.

Judicial Authority.— The Commissioner of Education is an executive officer, and is also charged with the performance of duties which are judicial in character. The administration of the school system through local officers and the action of district or town school meetings give rise to numerous questions which must be settled by some judicial authority. It is important that these numerous questions shall be settled at an early date and with the least expense possible. To meet this situation, the State Legislature has conferred upon the Commissioner of Education the power to hear and determine questions of this kind in the same manner that they are heard and determined by courts. Many appeals are decided by the commissioner each year, and since vesting this power in the chief officer of the education system over 11,000 appeals have been decided by him.

Powers of Commissioner.— Under this title of the education law the Commissioner of Education is given power to regulate the practice under which appeals shall be brought under his jurisdiction. He may render a decision on the law and the facts submitted and make any order necessary to give force and effect to his decision.

Decision Not Reviewable.—The decision of the Commissioner of Education on an appeal brought before him by an aggrieved party from any decision made by a district or town school meeting, by any district or town school officer, by a supervisor in relation to payment of school moneys, or an appeal brought before him by any other official act or decision pertaining to the school system of the State, is final and conclusive and cannot be reviewed by any court.

Decision Reviewable.—An original application to the Commissioner of Education to act in a case where no action has been taken before, is not an appeal to the Commissioner of Education from any decision of an officer or body. It is a direct application to the commissioner to exercise a power which is original and not appellate. An application, therefore, to the commissioner to remove a trustee of a school district is not an appeal in the sense in which this term is used in the education law. The action of the commissioner in a case of this kind was held to be reviewable by the courts. (159 N. Y. 162.)

The law was amended in 1910 providing that the Commissioner of Education could institute such proceedings as the education law authorizes and that his decision in any such proceeding or in any case brought to him for determination on petition or appeal should be final and not subject to review. The decision of the commissioner therefore in a case where he acts originally would seem to be final and not reviewable by the courts.

Rules of Practice.—The Commissioner of Education has prescribed the following rules to govern the practice on appeals:

1. **Form of appeal.** An appeal must be in writing, addressed "To the Commissioner of Education," stating the grounds upon which it is taken, and signed by the appellant or appellants. The appeal must be verified by the oath of the appellant or appellants. When the appeal is made by the trustees of a district, it must be signed by all the trustees, or a reason must be given for the omission of any, verified by the oath of the appellant or of some person acquainted with such reason.

2. **Service of appeal and papers.** A copy of the appeal, and all the statements, maps and papers intended to be presented in support of it, with the affidavit in verification of the same, must be served on the officer or officers whose act or decision is complained of, or some of them; or if it be from the decision or pro-

ceeding of a district meeting, upon the district clerk or one of the trustees, whose duty it is to cause information of such appeal to be given to the inhabitants who voted for the decision.

3. **Manner of service.** Such service must be made by delivering a copy of the appeal to the party to be served personally, or, in case he cannot be found in the supervisory district in which he resides, after due diligence, by delivering and leaving the same at his residence, with some person of suitable age and discretion, between 6 o'clock in the morning and 9 o'clock in the evening.

4. **Affidavit of service.** Immediately after the service of such copy the original, together with an affidavit proving the service of a copy thereof and stating the time and manner of the service and the name and official character of the person upon whom such service was made, must be transmitted to the Education Department at Albany.

5. **Time of perfecting appeal.** Such original appeal and all papers, etc., annexed thereto, with proof of service of copies, as required by rules 3 and 4, must be sent to the Education Department within 30 days after the making of the decision or the performance of the act complained of or within that time after the knowledge of the cause of complaint came to the appellant, or some satisfactory excuse must be rendered in the appeal for the delay. If an answer is received to an appeal which has not been transmitted to the Department, such appeal will be dismissed.

6. **Answer; when to be made; verification; service.** The party upon whom an appeal shall be served must, within 10 days from the time of such service, unless further time be given by the Commissioner of Education, on application, answer the same, either by concurring in a statement of facts with the appellant or by a separate answer, and of all affidavits, papers, maps, etc., in support thereof. Such statement and answer must be signed by all the trustees or other officers whose act, omission or decision is appealed from, or a good reason, on oath, must be given for the omission of the signature of any of them. Such answer must be verified by oath and a copy thereof and of all the statements, maps, papers, etc., intended to be presented in support thereof, served on the appellants or some one of them, in like manner as is provided in rule 3 for the service of a copy of an appeal.

7. **Submission of answer to department.** Immediately after the service of a copy of such answer and the statements, papers, etc.,

presented in support thereof, the original answer and papers, etc., together with an affidavit of the service of such copy and stating the time and manner of the service and the name and official character of the person upon whom such service was made, as hereinbefore provided for the service of a copy of an appeal, must be transmitted to the Education Department at Albany.

8. Reply, replication or rejoinder. No reply, replication or rejoinder shall be allowed, except by permission of the Commissioner of Education; in which case, such reply, replication and rejoinder must be duly verified by oath, and copies thereof served on the opposite party. Immediately after the service of such copy, the original, together with an affidavit of such service, and stating the time and manner of the service, and the name and official character of the person upon whom such service was made, must be transmitted to the Education Department at Albany.

9. When oath not required. So far as the parties concur in a statement, no oath will be required to it. But all facts, maps, or papers, not agreed upon by them and evidenced by their signature on both sides, must be verified by oath.

10. Who may answer appeal. When any proceeding of a district meeting is appealed from, and when the inhabitants of a district generally are interested in the matter of the appeal, and in all cases where an inhabitant might be an appellant had the decision or proceeding been the opposite of that which was made or had, any one or more of such inhabitants may answer the appeal, with or without the trustees.

11. Appeals in relation to alteration, formation or consolidation of districts. Where the appeal has relation to the alteration or formation of a school district, or the consolidation of two or more school districts, it must be accompanied by a map, exhibiting the site of the schoolhouse, the roads, the old and new lines of districts, the different lots, the particular location and distance from the schoolhouses of the persons aggrieved, and their relative distance, if there are two or more schoolhouses in question. Unless excused by the commissioner there shall also be presented a list of all the taxable inhabitants in the district or territory to be affected by the question, showing in separate columns the valuation of their property taken from the last assessment roll, and the number of children between 5 and 21 belonging to each person, distinguishing the districts to which they respectively belong.

12. **Stay of proceedings.** An appeal, of itself, does not stay proceedings. If the party desires such stay he should apply for it by petition, stating the facts upon which such stay should be made, duly verified. The Commissioner of Education will grant a stay, or not, as in his judgment it may be proper, or may subserve the interests of either party or the public, and may direct a copy of the petition to be served on the opposite party, and a hearing on both sides before deciding upon the application.

13. **Affidavit of verification.** The affidavit of verification, required by these rules to an appeal, answer, reply, replication and rejoinder, must be to the effect, that the same is true to the knowledge of the affiant, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

14. **Oaths.** All oaths required by these rules may be taken before any person authorized to take affidavits.

15. **Papers to be legibly written.** All appeals, petitions and other papers therein must be fairly and legibly written; and if not so written, may, in the discretion of the Commissioner of Education be returned to the parties.

16. **Names of parties or attorneys to be indorsed on paper.** When any party, appellant or respondent, is not represented on the appeal by an attorney, the name of such party, with the names of the district, town and county and his post-office address must be indorsed upon each paper of the party so represented, filed in the Department on such appeal; and, when represented by an attorney, the name of such attorney, with the name of the district, town and county affected and his post-office address, must be so indorsed upon each paper of the party so represented, filed in the Department on such appeal.

17. **Oral argument; briefs.** Submission of appeals may be made upon the papers filed therein, with or without oral argument, or the filing of briefs, as the Commissioner of Education, upon application, may determine. Arguments and hearings in appeals and other proceedings pending before the Commissioner of Education may be held before the Deputy Commissioner of Education, when authorized by the commissioner.

18. **Decision.** The decision of the Commissioner of Education in every case will contain the order, or directions, necessary and proper for giving effect to his decisions.

19. **Decision to be filed.** A decision upon an appeal will be forwarded by the Commissioner of Education to the clerk of the school district in which the appeal arose, or to the town clerk of the town, when the appeal relates to the alteration of a district in which the order appealed from is filed, whose duty it will be to file the same in his office as a public record.

20. **Records and reports.** The Commissioner of Education will, in his discretion, in the determination of an appeal, take into consideration any official records or reports on file in the Education Department and relating to the issues involved in such appeal.

REVIEW QUESTIONS

Who may appeal to the Commissioner of Education? What actions are appealable? Why was judicial authority conferred on the Commissioner of Education? What general power has the Commissioner in such matters? Are his decisions reviewable? Give in substance case 159 N. Y., 162. How was this affected by the amendment of 1910? What additional power was given the Commissioner of Education in 1910?

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